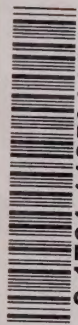


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ROYAL COMMISSION OF INQUIRY INTO CERTAIN
DEATHS AT THE HOSPITAL FOR SICK CHILDREN AND
RELATED MATTERS.

Hearing held
8th floor
180 Dundas Street West
Toronto, Ontario

The Honourable Mr. Justice S.G.M. Grange

Commissioner

P.S.A. Lamek, Q.C.

Counsel

E.A. Cronk

Associate Counsel

Thomas Millar

Administrator

Transcript of evidence
for

APRIL 9, 1984.

VOLUME 127

OFFICIAL COURT REPORTERS

Angus, Stonehouse & Co. Ltd.,
14 Carlton Street, 7th Floor,
Toronto, Ontario M5B 1J2

595-1065



ROYAL COMMISSION OF INQUIRY INTO CERTAIN
DEATHS AT THE HOSPITAL FOR SICK CHILDREN
AND RELATED MATTERS.

Hearing held on the 8th Floor,
180 Dundas Street West, Toronto,
Ontario, on Monday, the 9th day
of April, 1984.

- - - - -

THE HONOURABLE MR. JUSTICE S.G.M. GRANGE - Commissioner
THOMAS MILLAR - Administrator
MURRAY R. ELLIOT - Registrar

- - - - -

APPEARANCES:

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L. CECCHETTO)	of Ontario (Crown Attorneys
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I.G. SCOTT, Q.C.)	Counsel for The Hospital for
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	Children
F. KITELY	Counsel for the Registered
	Nurses' Association of Ontario
	and 35 Registered Nurses at
	The Hospital for Sick Children

(Cont'd)...



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APPEARANCES: (Continued)

J. SOPINKA, Q.C.)	Counsel for Susan Nelles -
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	Mr. & Mrs. Gionas, Mr. & Mrs.
	Inwood, Mr. & Mrs. Turner, Mr. &
	Mrs. Lutes, and Mr. & Mrs.
	Murphy (parents of deceased
	children)
F.J. SHANAHAN	Counsel for Mr. & Mrs. Dominic
	Lombardo (parents of deceased
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	Heather Dawson (mother of
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W.W. TOBIAS	Counsel for Mr. & Mrs. Hines
	(parents of deceased child
	Jordan Hines)



E R R A T A

Volume 122, March 28th, 1984

Page 7762, line 21 - "I could do it" should read
"I could not do it"

Page 7889, line 20 - "Ward 4B for one reason..."
should read "Ward 4A for one
reason..."

Volume 123, April 2nd, 1984

Page 8078, line 18 - "August the 22nd" should read
"August the 23rd"

Page 8119, line 24 - "September the 9th" should read
"December the 9th"

Page 8123, line 2 - "Miss Lowe" should read "Miss Lau"

Page 8123, line 6 - "baby Jama" should read "baby
Jammer"



INDEX OF WITNESSES

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--- Upon commencing at 11:15 a.m.

THE COMMISSIONER: Yes, Miss Kately.

MS. KATELY: Thank you,
Mr. Commissioner.

SUSAN NELLES, Resumed

CROSS-EXAMINATION BY MS. KATELY: (Continued)

Q. Good morning, Miss Nelles.

A. Good morning.

Q. When we left off on Thursday
you indicated there were some passages in the
communications book and the meeting book that I
wanted to cover with you. Have you had an opportunity
over the weekend to look at those passages?

A. Yes, I have.

THE COMMISSIONER: Miss Kately, I'm
not sure that the microphone is working. It is not
reaching me but I guess it's my fault not its fault.

MS. KATELY: Is that better, sir?

THE COMMISSIONER: Yes, that's fine.

MS. KATELY: Q. Now, Miss Nelles,
you should have beside you Exhibit 300, which is the
book, and in it you will see there are various tabs.
You are going to be using two of them. The first one
is the 4A Communications tab and the last one should
be the 4A Meeting Book. You are going to have to do



1
2 a little jumping around between those two but those
3 are the references I am going to be dealing with.

4 First of all, if we can look at the
5 communications book and specifically page 5. You
6 will note this is an entry from a meeting on July
7 31, 1980 and it indicates a short ward meeting. Are
8 you able to tell us whether you were present at the
9 time this meeting occurred?

10 A. I don't believe I was.

11 Q. Now, in the margin in what
12 appears to be Liz Radojewski's handwriting I think
13 there are the words "Talked to Carlos". Do you know
14 to what that refers?

15 A. I believe Carlos was the first
16 name of one of the pediatric cardiac fellows on the
17 floor.

18 Q. Would it have been Dr. Contreras?

19 A. Right.

20 Q. And after this note was
21 written, which we will assume for the moment was
22 about July 31st, would you have read the note?

23 A. I would have read it some time,
24 yes.

25 Q. And I think you indicated
last week that you would have read the notes or the



1
2 entries in either the communications book or the
3 meeting book within a two week period, is that
4 correct?

5 A. I said that it seemed to be
6 more likely that I would get a chance to read them
7 on nights than I would on days because days are
8 extremely busy on the floor. So, because our
9 rotation was two weeks of days, two weeks of nights,
10 that's why I said that it would probably be in the
11 neighbourhood of every two weeks or so that I would
read it.

12 Q. But it was a general practice
13 of yours to communicate with the communications
14 book at any rate?

15 A. Right, yes.

16 Q. Now, there is reference here
17 to three children: Amber Dawson, Andrew Bilodeau,
18 Lillian Hoos. Having read the minutes of this
19 particular meeting and about the time it occurred,
20 do you know why those three deaths were being
considered in that meeting?

21 A. I can only go by the date and
22 assume that those were three deaths that had
23 occurred in July but I don't have any specific
24 recollection as to why specifically those three, no.
25



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Q. Now, we have heard from Carol Browne whom you referred to as Carol Putherbough.

A. Right.

Q. And for purposes of today if you don't mind I will keep calling her Carol Browne. Her evidence was that some time around the end of July she had a discussion with you and perhaps Phyllis Trayner about Amber Dawson. If Amber's death was on July 28th then that left just a few days before the end of the month. Do you recall speaking with Carol Browne towards the end of July?

A. No, I'm sorry I don't.

Q. She then gave evidence - this is Carol Browne still - that after Lillian Hoos' death, which was July 31st, she thought she had a discussion with you and Phyllis Trayner. Do you recall such a discussion?

A. No, I'm sorry, I don't.

Q. Now, without making this a formal discussion there is a possibility that when you and Phyllis were leaving the ward that Carol Browne might have been coming on and that the discussion was an informal chat at the nursing station.

A. That could be. Carol Browne



1
2 worked the day shift and she often started first
3 thing in the morning. So, I would often see her
4 at change of shift in the morning, yes.

5 Q. And I have called it a
6 discussion that you might have had with Carol and
7 you don't recall a discussion in that sense, but
8 is there a possibility that at the change of shift
9 in the morning that there was a conversation or chat
10 or some other such word between at least you and
11 Carol Browne between Dawson on the one hand and Hoos
12 on the other?

13 A. It could have been. As I say,
14 I don't remember specifically that discussion.

15 Q. Do you recall on any occasion
16 meeting with Carol Browne, and again I am calling it
17 a meeting but it can be an informal meeting, by
18 having coffee in the coffee shop?

19 A. Again, I don't recall anything
20 that sticks out in my mind; she was another staff
21 member on the floor and I saw her at various occasions.

22 THE COMMISSIONER: You would pretty
23 well have to give the substance of the conversation
24 if there is any hope for Miss Nelles --

25 MS. KITLEY: I am sorry, sir, I
was dealing with it in the context in fact of Dawson



1
2 and Lillian Hoos and perhaps that wasn't made clear
3 enough.

4 THE WITNESS: I don't remember
5 discussing those two babies with her, no.

6 MS. KITLEY: Q. Did you see part
7 of Carol Browne's role to deal with the issues
8 arising out of the death of a child, namely, the
9 parents on the one hand and the staff on the other?

10 A. Carol was certainly a resource
11 person on the floor and was our nurse clinician and
12 that communication with the parents and the staff
13 were part of her role, yes.

14 Q. If you had some concerns about
15 the deaths that were occurring, would it have been
16 logical for you to speak with her?

17 A. Yes.

18 Q. Can I ask you to go to the
19 meeting book at the back, and page 175 is the page
20 which I will ask you to look. At the top on the
21 left hand side there is an entry "August 5, 1980 -
22 Phyllis, Susan Nelles and Sui". Now, was this
23 one of the excerpts that you read over the weekend?

24 A. Yes.

25 Q. Do you recall having been at
this meeting on August 5th, 1980?



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A. I don't have a specific
recollection of it, no.

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Q. You will see that it was Item
No. 2 that was reviewed, and I quote "Discussed
personal team problems re arrests, causes of death".
Do you have any recollection about a discussion on
that occasion about those topics?

9

10

11

A. About the topics written here?
Q. Yes.
A. Again, I don't have any
specific recollection.

12

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Q. Can we then go back to the
communications book and going back to page 5 where
we left off. At the bottom you will note in the
entry of August 5th, and I am quoting:

16

17

18

19

"Dr. Rowe commented that our recent
deaths were all because of anatomy
that could not be fixed."

20

21

22

Do you remember seeing that note
around the time of that entry?

23

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A. Again, I don't have any
specific recollection of seeing it, I can only
assume that I read it.

Q. I will ask you to turn the
page then. You will see that there is a ward



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meeting book there for August 15th and it would appear that you were present for it, is that correct?

A. Right.

Q. Now, without going into that one, would you go back to the meeting book, again on page 175 and just below the August 5th entry there is an August 13th entry that says:

"Phyllis, Susan Nelles, Jane Partridge, see communications book for meeting."

Now, am I correct that although that entry in the meeting book is August 13th that the entry we have just looked at in the communications book for August 15th was probably the same one?

A. Yes.

Q. And that you were noted as present both in the meeting book and in the communications book?

A. Right.

Q. Now, this is another one that you read over the weekend?

A. Right.

Q. Can I draw your attention to Point No. 3 which is, and I quote:

"Psychiatrist for 4A/B. Dr. Wehrspann will be meeting with him in September



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"to set up some plans for 4A/B staff
and patients."

Do you have a recollection of a
discussion about Dr. Wehrspann on that occasion?

A. I remember some discussion
about the possibility of setting up a meeting with
staff and patients on the floor but it was my
understanding at the time that it was a meeting that
was primarily for the purpose of the patients and
the parents of the patients to discuss problems that
they were having as parents on 4A and 4B and sort
of like a group meeting for staff and the parents
to get to know each other better.

Q. Do you have any recollection
of other occasions when Dr. Wehrspann's name was
discussed?

A. No, I do not.

Q. Would you turn the page in
the Communications book. The next entry is
September 5th, which is the first mortality meeting.
I understand that you were at the first but not at
the second, am I correct?

A. Yes.

Q. And since that was dealt with
in your previous testimony I don't want to take you



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through it except to go to page 9 in the middle of
the page where the words are, and I quote:

"Suggestion: Intermediate ICU on 4A/B
with equipment."

Do you have a recollection of that
being discussed at the September meeting?

A. Yes, I do.



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Q. What is your recollection about the rationale for the ICU?

A. It was felt that out of the discussion from the mortality rounds that it was suggested that these children needed a type of more specialized nursing, so to speak, like what they would get in the Intensive Care. It was explained at the time that the ICU themselves could not justify keeping the children for as long a period of time until it was discussed what was needed was sort of an intermediary unit, where the children would be transferred not immediately from the ICU to 4A, but instead from the Intensive Care to the intermediary intensive care.

Q. And having sat at that meeting, what was your personal view about the suggestion of an intermediate ICU?

A. I thought it was a good suggestion.

Q. Now if you can turn over in the communications book to page 12, and there is a meeting apparently on September the 8th, 1980, and it would appear it was at Bertha Bell's house, is that correct?

A. That's right.



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Q. And you are noted on the first line as having been present?

A. Yes.

Q. Do you recall being at the meeting?

A. Yes, I wrote that note.

Q. The minutes are in your handwriting?

A. Yes, they are.

Q. Now the question of Narvel was a particular item under discussion?

A. Right.

Q. Can you help me with why the meeting was at Bertha's house?

A. I think that it was very difficult to hold ward meetings on the floor, first of all because you didn't get a large number of people attending, because it would only be the people who were actually on duty that day that would be able to attend. And second, I think that it would be fair to say that a lot of times the meetings on the ward were ineffective because people were distracted by the number of people milling around the desk, for one thing, and also that they had patient assignments and had various duties that would



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call them away during the meetings. So there were a lot of distractions, and as you say, I don't think myself that they were very effective.

5

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Q. So were you a proponent of off-ward meetings?

7

8

A. Certainly some alternative to actually holding the meetings on the floor during the day shift, yes.

9

10

Q. To your knowledge was this the first such off-ward meeting that you attended?

11

12

A. It was the first one I remember, yes.

13

14

15

Q. If you could stay with the communications book and turn over to page 16, and this is the other mortality meeting, and I believe you were not present for this one?

16

17

18

A. That's right.

19

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Q. But you have read the notes presumably at the time the meeting occurred?

A. Yes.

22

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25

Q. I ask you to turn to page 17, and at the bottom there is an asterisk and I am quoting:

"Normal doses of various common drugs used in an arrest should be available



1

2

"on cart written in large letters
maximum doses counter-checked".

3

4

A. Right.

5

6

Q. Do you know where that comes
from in terms of how it fit into the discussion under
Velasquez?

7

A. No, I do not.

8

9

10

Q. Do you recall any discussion
that you were a participant in about placing the
dosages of various common drugs in an arrest?

11

A. I don't remember that, no.

12

13

14

15

Q. Could you turn the page to
page 18, and this is under a discussion of Dion
Shrum, and I appreciate again that you were not at
this meeting. Item No. 3 under "Suggestions" and
I quote:

16

"More aggressive with surgeons".

17

18

Do you have any idea the context
from which that comment is made?

19

A. No, I do not.

20

21

22

Q. Can you turn the page to
page 19, and this is in the discussion of Kelly
Ann Monteith and her physiological problems. It is
about five lines from the bottom, and I am quoting:

23

"Mortality rate in first few months

24

25



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"of life is 100 per cent at Hospital
for Sick Children."

3

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Were you aware of that statistic at
about this point in time?

5

6

A. I don't remember hearing that,
no.

7

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Q. Would you stay with the
communications book and go to page 23. The notation
at the top is October 22nd, 1980 and this appears to
be Liz Radojewski's note, but not a meeting, is that
correct?

12

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A. October 2nd, or 22nd?

16

17

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Q. October 2nd, page 23.

A. Yes.

19

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Q. It is a note from Liz

Radojewski, am I correct?

A. Right.

Q. The first two lines are,

and I quote:

"I know there is a problem with the
surgical residents in admitting drug
orders. Please have the medical
resident double check their drug
orders."

Can you help us with where that entry



1

2

is coming from?

3

A. Again I don't remember.

4

Q. Did you personally experience difficulty with drug orders of surgical residents and admitting drug orders?

5

6

A. I can't remember that I did, no.

7

8

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12

Q. Would you turn to the meeting book, at the back, page 175. There is an entry on the bottom on the left hand side under October 23rd, 1980 and in the margin there is a note indicating it was an evening meeting, and it would appear that your name is not listed?

13

A. Right.

14

15

Q. Do you have a recollection of attending that meeting?

16

A. No, I do not.

17

18

Q. Would you have read the minutes of this meeting, after the meeting occurred?

19

A. At some point, yes.

20

Q. You will see at about the fourth line and I quote:

21

"Discussed frustrations relating to staff meetings while on board."

22

Would that refer to your comment

23

24

25



1
2 earlier about the reason for having the meeting at
3 Bertha Bell's house?

4 A. That's right.

5 Q. Just that there wasn't enough
6 time and enough people to deal with the matter in any
7 depth?

8 A. And too many distractions, yes.

9 Q. Now still on page 175, and on
10 the right hand side of the October 23rd entry on the
11 third line, and let's start with the first line and
12 I quote:

13 "Nursing staff expressed feelings of
14 frustration concerning communication
15 blocks with doctors, the feeling that
16 medical staff do not trust nurses'
17 judgment as they should."

18 Do you recall that at about this time
19 in October 1980, experiencing the concern which is
20 outlined there, do you personally recall it?

21 A. Expressing it?

22 Q. No, feeling it.

23 A. To some extent, yes.

24 Q. Is that the kind of concern
25 that you raised last week about the Pacsai child?

A. Yes.



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Q. That it was your nursing judgment that the child ought to be dealt with a little differently?

A. Yes.

Q. And by October had you experienced that kind of feeling?

A. I think I felt the lack of communication, yes.

Q. If you go back to the communications book, page 25, in the middle of the page in an entry of November the 18th, and I am quoting re deaths:

"Charts are to leave the ward with the body; deliver charts to medical records at any hour. Do not wait for day shift to deliver it."

Now do you recall having read that entry in November of 1980?

A. Yes, I do.

Q. And is that what related to what you told us about last week, that early in July you had not signed off the medications and the chart left the floor?

A. Right.

Q. Do you recall what led up to



1
2 the specific direction in the communications book?

3 A. I believe there was some
4 problem with the charts still being on the ward when
5 the day shift came on.

6 Q. And were you personally
7 involved in that difficulty?

8 A. I don't remember that I was,
9 no.

10 Q. So there had to be another
11 incident at any rate between July and November which
12 as far as you know precipitated that note by Mrs.
13 Radojewski?

14 A. Yes.
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Q. Now would you turn to page

27 in the Communications Book? There is a notation from Mrs. Radojewski, dated December 18th, 1981, specifically with reference to 4A and I quote:

"I am really proud of your improvements in charting and nursing histories."

Can you help us with what you understood was the background to that comment.

A. Again I can't specifically remember other than that there was due to timing and what not on the ward that a lot of times the charting and nursing histories weren't completed and -

Q. Charting and nursing histories?

A. Right. And that Mrs. Rdojewski got quite annoyed about that kind of thing, and that there was a real push to improve both of those areas.

Q. It would appear from the note that it did improve with respect to the 4A team.

A. Yes.

Q. Would you turn to page 29 of



1
2 the Communications Book? This is with reference
3 to a January 8th entry that starts on the previous
4 page. On the bottom of page 29, and I quote:

5 "We will talk with Andrea Frewin
6 about the possibility of becoming
7 involved with the wards on a long
8 term basis to help us with our
9 feelings about patients' deaths."

10 Do you recall discussion in
11 January, 1981, about involving Andrea Frewin?

12 A. Again I don't specifically
13 remember when it came up. It was - it is my
14 recollection it was sometime at the beginning of
15 '81.

16 Q. And what was your personal
17 view about involving Andrea Frewin for this
18 purpose?

19 A. Again I think I had reserva-
20 tions about how effective it would be if the
21 meetings were held on the ward during the days
22 because of the - as I have expressed - the
23 distractions and the really ineffectiveness of
24 meetings held during the day.

25 Q. Now if you will leave the
book for a moment you should have Exhibit 65
beside you there, which is minutes of a meeting on



1

2

January 12th, 1981.

3

Thank you, Mr. Registrar.

4

Now the list of those present does not include you. Have you seen the minutes of this meeting previously?

5

6

7

A. I don't recall ever seeing it, no.

8

9

Q. I will move on then.

10

11

12

13

Would you go to the meeting book, page 179? I will direct your attention to an entry on the right hand side under the date January 16th, 1981, and it appears that you were not present. But three lines down, and I quote:

14

"Liz and Mary will talk to Andrea Frewin."

15

16

Do you recall reading that entry during January of 1981?

17

18

A. Again I don't have a specific recollection.

19

20

21

Q. Going back to the Communications Book, page 32, there is an entry of March 10th, and it appears to report on the team leader day.

22

Were you advised that there had been such a day?

23

24

25

A. Right.



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Q. And the object of the exercise was to review issues that the team leaders were dealing with -

5

A. Right.

6

Q. - on the ward?

7

A. Right.

8

9

10

Q. Could I direct your attention to the list under roman numeral number I, the second last item appears to be "need for Andrea Frewin".

11

12

Now this is a March meeting, whereas the ones we have just referred were in January?

13

A. Right.

14

15

Q. Do you recall in March any discussion or comment about involving Andrea Frewin?

16

17

18

A. Again I don't have a specific recollection. It was my feeling that there was some discussion sometime in the new year.

19

20

Q. Do you have ~~ex~~hibit 138 beside you? It is another memorandum.

21

A. Thank you.

22

23

24

25

Q. Now I appreciate that it is dated April 23, 1981, when you were not working at the hospital, but could I ask you to refer to



5
1
2 page 3? Under the heading "Optimal Arrangement"
3 there are three paragraphs, and I am referring to
4 the third paragraph, the fourth sentence - I will
5 read the third and fourth -

6 "For the one vacant post we have
7 seven very strong candidates who
8 have already applied only two of
9 whom are from abroad. Both of
10 these have been trained in good
11 schools, speak English fluently,
12 and have either been with us on
13 electives, or are trainees of
former fellows."

14 This refers to the language of
15 certain of the fellows.

16 Did you personally experience any
17 language or - well we will call it language
18 difficulties - with those with whom you had to
work on the ward?

19 A. Yes, I did.

20 Q. Was there more than one
21 individual with whom you had this difficulty?

22 A. Only one comes to mind.

23 Q. Who is that?

24 A. Dr. Ning
25



6
1
2
3 Q. And that was the physician
4 to whom you had referred in connection with the
5 Pacsai child?

6 A. Right.

7 Q. Now I want to deal with one
8 final matter.

9 Mr. Commissioner, you might wish
10 to look at Exhibit 304, which is the ward diagram.

11 Am I correct that particularly
12 during the night shift the nurses would have - and
13 the registered nursing assistants - would have
14 eaten their dinner or lunch whichever you call it
15 at the nursing station?

16 A. Right.

17 Q. There was no place else to
18 go in the hospital?

19 A. No.

20 Q. And that between the diagram
21 that we have here on the board and Exhibit 304
22 which is just a reproduction for those of us who
23 can't see the chart, the nursing station is physically
24 behind - or in front of the table where the nurses
25 would eat their dinner?

A. Yes, it is.

Q. And am I correct that



1
2 particularly at nights the nurses who weren't
3 in constant or shared nursing care would eat more
4 or less at the same time?

5 A. All the nurses?

6 Q. Well, not all the nurses,
7 clearly, because some of them had to be working on
8 the floor. But that there was a period of time
9 where there weremore nurses at the nursing station?

10 A. Yes.

11 Q. And if the nurses were seated
12 at the tables, between rooms 431 and 418 -

13 A. Right.

14 Q. - am I correct that a person
15 or persons could come down, for example, the hallway
16 of 4B and not be seen by those who were seated
17 eating their lunch or dinner behind the nurses'
18 station?

19 A. Right.

20 MS. KITELY: Those are all the
21 questions I have, sir.

22 MR. COMMISSIONER: Yes. Thank you.

23 Miss Jackman?

24 MS. JACKMAN: I have no questions.

25 THE COMMISSIONER: Mr. Olah?



CROSS-EXAMINATION BY MR. OLAH:

Q. Miss Nelles, my name is John Olah and I act for Janet Brownless. And I understand and I know the difficulties you have experienced, and I would like to just take a few minutes and cover some areas that may be helpful to my client and relevant to my client.

I would like to take you back to mid March of 1981 and see if we can recreate the climate or the texture of ward 4A. As I understand it it was on March 18th that you got the phone call from your head nurse, Liz Radojewski?

A. Right.

Q. And that is when she told you that there would be an inquest relating to Pacsai?

A. Right.

Q. And that you told us about the high digoxin level and that you would be questioned about the matter?

A. Right.



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Q. And I think you told the

Commissioner that you were scared, you had never been involved in anything like this before?

A. That's right.

Q. Now, of course, right after Pacsai had died another child by the name of Inwood died on the 4B side. Did you know about that death?

A. Yes, I did.

Q. And I take it when you coupled that with the information you received on the 18th and the series of deaths that had occurred on the ward, you were pretty concerned by March 18th?

A. Yes.

Q. And when you returned on March 20th, were you told about the death of Gardner on the 18th of March?

A. I don't remember that, no.

Q. All right. But certainly by March 20th when you came back, your state of mind was that you were alarmed and concerned and maybe even scared somewhat?

A. About Pacsai?

Q. About Pacsai and about what was coming in terms of a Coroner's inquest?

A. Right.



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Q. And that very long night
you've got Allana Miller, and Allana Miller dies?

A. Right.

Q. And she was assigned to your
care?

A. Right.

Q. I guess if you were alarmed
before Miller's death, I assume that after Miller's
death that alarm heightened?

A. I don't know what you mean
by alarmed.

Q. Well, your anxiety, your
state of mind, you had some apprehensions about what
was going on?

A. I was upset, yes.

Q. And all I am saying is that
with Miller's death that upset just increased that
much more?

A. Right.

Q. And then we come to the very
next night. I take it by the evening of Cook's death
people on the ward knew about the pending Coroner's
inquest?

A. Right.

Q. And I assume that other people



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were concerned too on the ward?

3

A. About the inquest?

4

Q. Well, about the inquest and
about what was going on in the ward.

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6

A. Yes.

7

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Q. And I take it that by the
time of that long night shift of Cook's death people
were being extra cautious, there was a Coroner's
inquest coming and I suggest to you people were
exercising extra caution?

11

12

13

A. I don't look at it that way.
I would think that there needs to be caution any
night that you are looking after --

14

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17

Q. Oh, no question about that,
but wouldn't you agree with me that all of the things
in the background, Coroner's inquest, continuing
deaths, that people were being just a little extra
cautious that evening?

18

19

A. That's not the way I perceived
it.

20

21

Q. All right. You were just
being your regular cautious self that evening?

22

23

24

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A. I had a baby on constant care,
so I needed to be intent on what was going on there.

Q. And of course you had known



D4 1
2 that Baby Cook had an earlier blue spell and you
3 were concerned about Baby Cook?

4 A. Right.

5 Q. And then of course during
6 the evening some other things happened, and you have
7 told us about that, for instance, you heard about
8 digoxin being tested, the elixir?

9 A. Right.

10 Q. And you heard about the
11 lock-up around eleven o'clock, twelve o'clock?

12 A. Right.

13 Q. And I take it by then your
14 concern about what was going on, did it mount any
15 further?

16 A. Could be, yes.

17 Q. And were you being just a
18 little more cautious than you would normally be when
19 it came to Baby Cook?

20 A. I think that being on constant
21 care you are looking after one child and that child
22 is your number one concern that night.

23 Q. All right. And you were
24 caring very carefully for Justin Cook that night?

25 A. Yes.

Q. Now, the first break that you



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took, I think you told us was around eleven o'clock
and Phyllis Trayner came in to relieve you?

A. Yes.

Q. And you were out, I think
you told us, about thirty or forty minutes from the
room?

A. Approximately, yes.

Q. And then you went back into
the room, did you not?

A. Yes.

Q. And Phyllis Trayner was still
there?

A. Yes, she was.

Q. By the way, before you took
your break at eleven o'clock, would it be fair to
say that from the time that you came on at approxi-
mately eight o'clock to eleven o'clock you were with
Baby Cook at all times?

A. Yes, I was.

Q. You didn't leave the room?

A. No, I did not.

Q. And you were looking after
Baby Cook at all times, either watching him or
attending to his needs?

A. Right.



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Q. Now, when you came back about 11:30 or 11:40 you then stayed until about 2:30 in the morning, did you not?

A. Right.

Q. And again because this child, there was some concern about his status and because of the constant nursing care situation, I suggest to you you stayed with that child all the time from the time you returned from your first coffee break to the time you were relieved at about 2:30?

A. That's right.

Q. And at all times you were either watching the child or attending to his needs?

A. Right.

Q. And that's how you could tell Mr. Lamek that no one else, you saw no one else administer any other medication while you were in the room?

A. That's right.

Q. Now, also, when you came back from your break, your second break, and that would have been about 3:15?

A. Right.

Q. Phyllis Trayner was still in the room?



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A. Yes, she was.

Q. And as far as you could determine she was giving the same kind of care and devotion to Baby Cook as you were?

A. Right.

Q. So that to sum up that evening you don't know what happened while Phyllis Trayner was in the room and you were out of the room but at all times as far as you are concerned you were the only one that gave any nursing care to Justin Cook?

A. Well, except for Mrs. Trayner, yes.

Q. Well, other than Mrs. Trayner when you were out of the room. I think at one point you said she started to feed Baby Cook in your presence.

A. She continued to feed him after I left the room.

Q. After you left, okay.

Now, I would like to turn to another area. I think you told Mr. Percival the other day, you talked about the members of the team and you talked about Janet Brownless. Do you remember that discussion?



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A. Yes.

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Q. And your impression was that she had just graduated from school. Was that your impression?

5

6

A. When she joined our team, yes.

7

Q. When she joined the team, when she started at the Hospital?

8

A. Right.

9

10

Q. So, it was fairly obvious to you that she was very inexperienced, certainly when it came to cardiology?

11

12

A. With regard to cardiology, yes.

13

14

Q. Okay. Would you agree with me that cardiology, especially pediatric cardiology is a difficult subject?

15

16

A. Yes, it is.

17

Q. It is not something you pick up over night?

18

A. No, it's not.

19

20

Q. In fact, I think you told the Commissioner that you had had some pediatric cardiology out in Vancouver.

21

22

A. Right.

23

Q. And yet you felt still somewhat queezy when you started at The Hospital for Sick

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Children on Wards 4A and 4B --

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A. Yes.

4

Q. -- in assisting an arrest
because you felt inexperienced?

5

A. That's right.

6

7

Q. Would you agree with me that
it takes a fairly substantial period of time to
gain the kind of sophistication in pediatric cardiology
that would make one comfortable and knowledgeable
on a ward of that kind?

8

9

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A. Yes, it does.

12

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Q. Can you assist me, for
example, how long you think it would take someone
fresh on the ward to gather that kind of knowledge
and sophistication? Are we talking about one month,
more than one month?

16

A. Longer than that.

17

18

Q. How long would you say it
would take?

19

20

21

22

A. Before you actually feel
comfortable I would say it takes probably at least
three to six months and before you actually feel that
you have any type of knowledge or experience I really
would say it takes close to a year.

23

24

25

Q. Okay. In fact, I think you



1
D10 2 oriented Miss Brownless to nights back in September?

3 A. Yes, I did.

4 Q. And it was very obvious to
5 you, was it not, that she was very inexperienced when
6 it came to pediatric cardiology at that time; she
7 had just been on the ward about three weeks?

8 A. She was inexperienced, yes.

9 Q. Okay. Now, I would like to
10 turn to Baby Miller for a moment if I may. Have you
11 got a copy of Exhibit 32A there, Miss Nelles?

12 A. Is that the chart?

13 Q. That's the nursing schedule.
14 If I could ask you to turn to Tab 13, to page 177.
15 That's dealing with the long night of March 20th.

16 A. Right.

17 Q. Have you got that?

18 A. Yes.

19 Q. Okay. Now, you will see that
20 the shift dealing with the long night, Miss Brownless
21 was on relief from, I guess it would be 7:00 to 11:00.

22 A. That's right.

23 Q. Okay. They've got it
24 reversed. When she came on 4A, when she returned to
25 4A at eleven o'clock she assumed two of the babies
that you had; am I correct on that?



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A. Yes.

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Q. They were in 418?

4

A. Right.

5

Q. Now, my copy is not very clear. Is that a '2' or a '3' beside your name at 418?

7

A. '2'.

8

Q. Okay. Now, can you tell me whether those children, because they were in 418, first of all, were they younger children, babies, infants?

11

A. Yes, they were.

12

Q. And were they fairly ill?

13

A. I don't recall that they had any --

15

Q. Well, I guess what I'm trying to find out is, did you feel or do you recall that they required a fair degree of care and attention that night?

18

A. They were stable. My recollection is that they were stable that evening and required the regular care that young infants require.

20

21

Q. All right. The point I guess I'm trying to make is, Miss Brownless had three children in 418. Would you agree with me that most of

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the evening her time would have been spent in 418?

3

A. Most of it, yes.

4

5

Q. In fact, you were in 418 that evening after you returned from the echo lab with Justin Cook?

6

A. Right.

7

8

9

Q. Do you recall seeing Miss Brownless in there for large periods of time after you returned from the echo lab?

10

11

A. I recall seeing her but I can't remember.

12

13

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16

Q. Okay. Now, one of the things I was hoping you could clear up for me, because I was a little confused, is, around one o'clock I think you told us Phyllis Trayner came in that night, the night of Miller's death, with a syringe, an empty vial, the syringe had already been drawn up.

17

A. Yes.

18

19

Q. And that was the gentamicin, was it, that you saw; you looked at the vial?

20

A. Yes, I did.

21

Q. And on the empty vial you read the label?

22

A. Yes.

23

Q. And I guess you would compare

24

25



1
D13 2 that with the ticket that Phyllis Trayner would have
3 brought you?

4 A. Right.

5 Q. Now, gentamicin, is that
6 a clear liquid, is my understanding correct?

7 A. Yes, it is.

8 Q. And so is digoxin?

9 A. The parenteral?

10 Q. Is digoxin a clear liquid
11 also?

12 A. The parenteral?

13 Q. Yes.

14 A. Yes, it is.

15 Q. Is there any distinguishing
16 feature, is there any way one can tell whether a
17 syringe that had been drawn up already had digoxin
18 or gentamicin in it? Is there any way of distinguishing
19 that?

20 A. I think that would be diffi-
21 cult to ascertain at that point.

22 Q. Now, I think you also told us
23 that, turning to the night that Cook died, you saw,
24 was it, two vials of propranolol that was taped to
25 the bed?

A. That's right.



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Q. And I assume because you were going to care for Baby Cook you went and checked the contents of those vials; am I correct on that?

A. I saw the two empty vials and the syringes at the end of the bed.

Q. All right. And you were satisfied, you read the labels on the vials and you were satisfied that it was in fact propranolol?

A. Yes, it was.

Q. What colour is propranolol?

A. The parenteral?

Q. Yes.

A. It is again clear.

Q. It is clear, okay. Now, I would like to take you back over the course of the nine months if I may and just cover some terrain that was covered with you by other examiners.

As I recall it, you went on holiday on August 19th after you concluded that shift?

A. Yes.

Q. Okay. And I think you told the Commissioner that your previous experience was on Ward 5A from October to April that only one child had died while you were on duty?

A. Right.



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Q. And you had not cared for
that child?

A. Right.

Q. And that from April to June
on Ward 4A you were not on duty for any deaths whatso-
ever?

A. Right.

Q. However, of course, that had
radically changed by August 19th when you were on
holiday because some five babies that had been assigned
to your nursing care had died; they were Bilodeau,
Dawson, Hoos, Turner and Monteith?

A. Right.

Q. And I think you told the
Commissioner fairly that by the time you went on
holiday the stress that you felt was terrible?

A. Yes.

Q. And it was only your holiday
and talking to your brother that relieved that stress
that you were able to cope and come back after your
holiday somewhat rejuvenated?

A. Right.

Q. And that by August 19th when
you went on your holiday you had the impression that
there ^{was} an unusually large number of deaths occurring on



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the ward?

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A. We had had a large number, yes.

4

Q. Okay. I think you also told

5

Mr. Lamek or Mr. Sopinka that it was some time in

6

February or March that you started discerning some

7

sort of pattern, namely, that babies were dying in the
presence of one team, which was the Trayner team?

8

A. Right.

9

Q. And I think you also told Mr.

10

Sopinka that by late March, this was about the time

11

of Miller's death, that you felt that attending on

12

the ward, it was hard to get up for work, it was hard
to go to work?

13

A. It was stressful, yes.

14

Q. And it was more stressful than

15

it had been in March -- I'm sorry, than in August,

16

August 19th?

17

A. Yes.

18

Q. And that in fact by March 23rd,

19

the evening of that meeting at Liz Radojewski's house,

20

I guess you discerned more of a pattern, you had

21

already discerned that there was a large number of

22

deaths and that you had already discerned that they

23

were in the presence of one team and that some answers

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A. Yes.

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Q. And that's why you welcomed
the investigation?

A. Right.

Q. Now, in retrospect, ma'am,
would you agree with me that it is clear that that
pattern started well before March the 23rd, that in
fact the pattern in retrospect now was there in
July and August of 1980?

A. There was a pattern, yes.

Q. And would you agree with me
it was the pattern that you discerned by March?

A. In regards to the number of
deaths occurring with our team and in the early
morning, in the early morning hours.

Q. Yes.

A. Yes.

Q. And that that pattern was
well entrenched by the time you went on holidays
on August the 19th, or seemed to be, in retrospect?

A. I don't remember ever drawing
that pattern.

Q. Well, sitting here today, in
retrospect, would you agree with me that that
pattern was --

MR. ROLAND: It seems to me this



1
2 doesn't help Mr. Olah or any of us at all, we can
3 all see whether there was a pattern or not, if she
4 says there isn't a pattern his case isn't harmed
5 but if she says there is a pattern his case is not
6 advanced, what does it matter what this witness
7 sees in retrospect at this stage?

8 THE COMMISSIONER: Yes, I agree.
9 I don't really think this is helping us much, it
10 is something that we can see and that she can see
11 in retrospect. If she took any action because of
12 it then perhaps it might be relevant.

13 MR. OLAH: Thank you, sir.

14 Q. Just one other matter that I
15 would like to cover with you, and that is we know
16 from your evidence, and also from the medical
17 records, that you were caring for Baby Pacsai the
18 evening that he had his arrest.

19 A. Right.

20 Q. And I assume that in preparing
21 yourself for the caring of that child you had read
22 the medical records of that child?

23 A. Not his entire chart, no.

24 Q. You wouldn't have read the
25 entire chart. The one question I did have is, would
you have known that evening that he had a normal



1
2 heart, do you recall?

3 A. My only recollection is that
4 I knew his diagnosis, which is a condition that I
5 knew existed in very young infants.

6 Q. And would that have entailed
7 knowing that the child had a normal heart?

8 A. I think my feeling was that
9 the paroxysmal atrial tachycardia, it was an unknown
10 sort of thing that they often didn't know what caused
11 it and that it seemed it was a condition that
12 presented itself and could disappear as well.

13 Q. In other words, it did not
14 necessarily require a lesion of some kind of the
15 heart?

16 A. That's right.

17 Q. For it to be present?

18 A. Right.

19 MR. OLAH: Thank you. Those are
20 all the questions I have.

21 THE COMMISSIONER: Thank you,
22 Mr. Olah. Mr. Labow?

23 MR. LABOW: Thank you,
24 Mr. Commissioner.

25 CROSS-EXAMINATION BY MR. LABOW:

Q. Miss Nelles, my name is



1
2 Stephen Labow and we represent a number of the
3 parents of these children who died on the wards.
4 I will be asking you about some of those specific
5 children in a moment, but first I would like to
6 refer to some other matters.

7 Now, we have heard a lot about the
8 conflict, if I can call it that, with Phyllis
9 Trayner, that you and Mrs. Trayner did not always
10 get along that well. Did you have a similar problem
11 dealing with Mrs. Scott?

12 A. No, I did not.

13 Q. Or Mrs. Christie?

14 A. No.

15 Q. Miss Brownless?

16 A. No.

17 Q. Or anyone else that you
18 worked with?

19 A. Not the same sort of thing.

20 Q. Now, whose team were you on
21 on Ward 5A, do you recall?

22 A. I believe I was on Carol
23 Nicholson's team, I am not sure whether that was
24 when we actually transferred, the first transfer to
25 4A or whether that was on 5A.

Q. Were you on Mrs. Trayner's



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2

team from the time that you transferred down to 4A?

3

A. No, I was not.

4

Q. Whose team were you on

5

originally?

6

A. Again I believe it was Carol
Nicholson's, but I can't be sure.

7

8

Q. And you have indicated to
the Commissioner that you did take a course in
physiology of the heart?

9

10

A. Yes, I did.

11

12

Q. Did you feel that you had a
better understanding of the physiology of the heart
than the other members of your team?

13

14

A. No.

15

16

Q. Did you feel you had a better
understanding than any of the other members on your
team?

17

A. No.

18

19

Q. Now, you have also indicated
when you were discussing Kevin Pacsai, that lots
of children showed symptoms of digoxin toxicity.

20

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A. Not lots, but that I had seen
evidence of digoxin toxicity before.

22

23

Q. Well, what symptoms of digoxin
toxicity were you aware of? In other words, what

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symptoms made you think that digoxin toxicity might be a consideration?

A. Primarily the vomiting and arrhythmias.

Q. Any particular kind of arrhythmias, or just arrhythmias in general?

A. Again I don't think I am qualified. It was my experience as a nurse that vomiting and some form of arrhythmia were a characteristic of dig. toxicity.

Q. Now, when you saw vomiting and arrhythmias in children, did you discuss it with the doctors, or anyone, just as a general --

A. I think particularly vomiting, when a child, an infant or whoever appeared to be vomiting I think that if they vomited, if they were on dogixin or prescribed digoxin that I would draw it to the attention of the physician.

Q. Now just to ask you a few questions about the Pacsai matter. You indicated at length to a number of counsel with regard to the idea that you were relieved that doctors would listen, and that you were concerned that day because the doctor had not listened to you.

A. That was my feeling, yes.



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Q. Did you discuss that with your
team leader?

4

A. Well, she was there.

5

6

Q. Did you discuss it with your
head nurse?

7

A. I don't believe so.

8

9

Q. Now, was Mrs. Trayner as
concerned as you by that kind of situation?

10

11

A. As I say she was with me a
lot of the night of Pacsai and she could see as
much as I could what was transpiring that night.

12

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14

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Q. My question is, was that a
concern that you expressed and discussed, or is
that just a concern that you kept to yourself? You
were apparently upset.

16

A. Yes.

17

18

THE COMMISSIONER: We have had that
several times, have we not had the conversation
between Miss Nelles and Mrs. Trayner?

19

MR. LABOW: Yes, we have.

20

21

THE COMMISSIONER: About whether
she was relieved or not.

22

MR. LABOW: No, I understand that.

23

24

THE COMMISSIONER: No one has
suggested that it wasn't discussed with Mrs. Trayner.

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What was actually said it seems to be in question.

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MR. LABOW: Right. My question is more to whether it was discussed with anyone besides Mrs. Trayner.

6

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THE WITNESS: I believe it was, yes. I think certainly that Dr. Kantak and Dr. Costigan that evening were aware that I was upset.

9

10

MR. LABOW: Q. Did you feel that it was important enough to note?

11

12

A. Yes, I did.

13

14

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THE COMMISSIONER: You are talking about physically note?

16

17

MR. LABOW: Physically note.

18

19

THE COMMISSIONER: In writing?

MR. LABOW: Yes, in writing.

20

21

THE WITNESS: Actually I do believe I did say something to Mrs. Radojewski about my concern that night.

22

23

24

25

MR. LABOW: Q. That night, when you went off shift?

A. I don't know when it was but my concern that surrounded the night of Pacsai.

THE COMMISSIONER: But you didn't make a written note about the absence of toxicity?

THE WITNESS: No.



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MR. LABOW: Q. Now, we have also heard in Mr. Shinehoft's questioning that you were frustrated, and the Commissioner asked you if that had had happened, this kind of frustration had occurred with regard to any other of the children that we are looking into; do you remember that question?

A. Right.

Q. And you indicated, it didn't happen that a doctor went home?

A. Right.

Q. Could you indicate for me what did happen with regard to any of the children that we are looking into that caused you that kind of frustration?

A. I don't remember specifically, Pacsai was the only case that I specifically recall where I was concerned about the interaction between the physicians and the nursing staff.

Q. Other than referring to specific children, what kind of things created the frustration?

THE COMMISSONER: The witness has just said there wasn't any specific incident, hasn't she?



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MR. LABOW: She said she can't
recall any specific instances.

4

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6

MR. SCOTT: She said everyone she
can recall, surely this has got to be the end of it
and just leave the --

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MR. LABOW: Mr. Commissioner, from
Miss Nelles' answer on Thursday, I had understood
that she had had this frustration the previous
week regarding communication with doctors, but it
had not been with regard to a doctor going home.
I just wanted to know if there were other instances.

12

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THE COMMISSIONER: Unless there
is something specific you have in mind, I would
think it would be difficult for a nurse to be working
with doctors all her life without occasionally being
frustrated by them. I have found myself sometimes
frustrated by lawyers I know that.

17

18

MR. LABOW: And I by judges,
Mr. Commissioner.

19

20

21

THE COMMISSIONER: If you have some
specific instance I think you could put it to her,
but she has already answered the only time --

22

23

24

25

MR. LABOW: We have another
instance and that was in the communication books,
and in that instance that you had trouble communicating,



1
2 a language problem, that she indicated with
3 Dr. Ning, when Miss Kitely put it to you, a note
4 in the book regarding communication and a language
5 problem.

6 THE WITNESS: Right.

7 MR. LABOW: Q. That is another
8 instance, and I was only questioning as to whether
9 there were other specific kinds of things that
10 occurred.

11 MR. SOPINKA: She says she can't
12 recall, and I don't know how my friend can badger
13 her any further. Perhaps the badgering is too
14 strong.

15 THE COMMISSIONER: I think that is
16 your answer, Miss Nelles has said I can't recall
17 and you are certainly being led at this point. Do
18 you recall any other instances of specific frustra-
19 tion that you want to tell us about?

20 THE WITNESS: No. As I say what
21 Miss Kitely had said where it was expressed in
22 the communications book that we had problems with
23 a lack of communication between the physicians
24 and those - and as I say even that is not a specific
25 instance, it is a feeling that at times we did not
talk with the physicians in cardiology, and that is



1
2 what I meant by the lack of communication.

3 MR. LABOW: Q. Now with regard
4 to your communication with Mrs. Cook; you explained
5 to her because you didn't want to lie, that her
6 child was in a very severe condition.

7 A. Yes.

8 Q. Did you do that with regard
9 to other parents?

10 A. I can't remember again a
11 specific instance.

12 Q. Were you ever criticized for
13 that kind of conduct?

14 A. No.

15 Q. Did you in most cases, and I
16 am going to deal specifically with the children
17 that I am interested in, did you feel that the parents
18 were well informed by the doctors as to the condition
19 of their children?

20 A. I would hope so, yes.

21 MR. LABOW: Mr. Registrar, could
22 you give the witness the Turner, Lutes, Gosselin
23 and Gionas charts, please?

24 Q. Miss Nelles, before I deal
25 with these specific children, do you have your
notes Exhibit 393 and 394?



1

2

A. Yes, I do.

3

Q. I have just a short question.

4

In Exhibit 393, and those are the notes regarding
Kevin Pacsai.

5

6

A. Right.

7

Q. Could you turn to page 110
of those notes?

8

A. Right.

9

10

Q. You wrote those notes
approximately a week after the death of the child?

11

A. Right.

12

13

14

15

Q. And you indicate right near
the top of the page that you can't be absolutely
positive of the amount of digoxin that you gave to
him but you were certain that it was in a 1 cc syringe?

16

A. Right.

17

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EMT/cr

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Q. Now, you have told a number of counsel, including Mr. Percival last week, that you were certain with regard to the children that we are discussing that you gave the required and prescribed amount of drugs because you signed them off and it was part of your training?

A. Right.

Q. Is that correct?

A. Right.

Q. Then how can you be less certain in the Pacsai matter when you made these notes a week after the incident?

A. Because I have said here that I cannot be absolutely positive, and what I was referring to is that you can never be absolutely positive.

Q. So you are not positive with regard to any of the other children?

A. I am fairly certain, yes.

Q. Do you have any recollections like this in that you recalled the kind of syringe that you used?

A. I can only surmise on what I normally did when administering medication to children.

Q. Now in Exhibit 394, and these



1
2 are the notes regarding Justin Cook, would you turn
3 to page 214, please?

4 Now the whole top part of the page
5 refers to the propranolol syringe that had been pre-
6 prepared by Nurse Scott.

7 A. Right.

8 Q. Now you point out that you
9 asked Mrs. Trayner if she thought you should give the
10 medication prepared by Mrs. Scott.

11 A. Right.

12 Q. Was that something you generally
13 did?

14 A. Ask someone?

15 Q. With propranolol.

16 A. I'm sorry, I don't understand
17 the question.

18 Q. Would you generally check
19 before you gave a propranolol injection of some kind?

20 A. I did not draw up that syringe.
21 That is why I was checking because it is not normal
22 protocol to give a medication that was prepared by
23 someone else.

24 Q. But my question is with regard
25 to propranolol do you generally check, aside from
this situation? Is that a drug that you have to check



1

2

with someone?

3

A. No, it is not.

4

Q. Well, is it something that you
would normally do with Mrs. Trayner?

5

A. This was a very different
circumstance.

6

7

Q. Can you recall another
circumstance like this in the nine month period that
we are looking into where you gave a medication drawn
up by someone else?

10

A. I don't like to do that, no.

11

Q. I mean you can't recall another
instance?

12

13

A. I don't believe so, no.

14

Q. Right. Now was Mrs. Trayner
in the same room do you recall?

15

16

A. She was in 418.

17

Q. So you came in to 418 with the
two medications, the one drawn up by Mrs. Scott --

18

A. Right.

19

Q. - and the one you had drawn
up because you also - you drew up a second
medication --

20

21

22

A. Right.

23

Q. Because you needed more. And

24

25



1
2 aside from Mrs. Trayner saying "Yes", was there any
3 further discussion between you about this kind of
4 medication: the fact that someone else had drawn it
5 up.

6 A. There was discussion on whether
7 we should use the parenteral propranolol orally.

8 Q. But there was no further
9 discussion about using a medication drawn up by
10 another nurse?

11 A. No, I asked her if I might
12 do that, if she thought it was all right, and she said
13 yes.

14 Q. Could you look at Phillip
15 Turner's chart, please? Now you had the care of
16 Phillip Turner the night that he died. You had the
17 care of this child and two others in Room 418 as I
18 understand it?

19 A. I will take your word for it.

20 Q. Thank you.

21 Now when you looked after this child
22 do you recall reading the progress notes prior to
23 looking at him on that date?

24 A. I do not remember.

25 Q. Do you have any recollection
reading the note on page 49 from Dr. Soulioti right



Nelles, cr.ex.
(Labow)

1

2

in the middle?

3

A. I don't remember.

4

Q. So you don't know if you knew

5

whether or not this child had had episodes of sinus
bradycardia and because of that digoxin was not
always given?

7

A. I don't remember.

8

Q. Do you recall receiving any

9

special instructions?

10

A. I don't remember.

11

Q. With reference to your note,

12

looking at the first note on page 52, do you know
when you made that note?

13

MR. SOPINKA: What note is that?

14

MR. LABOW: That is the July 31st,

15

1980, 1930 to 0100, the first note.

16

THE WITNESS: I made them after the

17

child died.

18

MR. LABOW: Q. So you made both of

19

those notes after the child had died?

20

A. Right.

21

Q. Is there a particular reason

22

why you separated them into two distinct notes?

23

A. Because the events from 1930

24

to 0100 were different than what transpired at 0125.

25

25



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Q. Now from 1930 to 0100 was
the child relatively stable?

3

4

A. I can't remember. I can only
go by what the note says.

5

6

Q. Do you recall if you had any
specific instructions to watch this child a little more
closely?

7

8

A. I am sorry, I don't recall.

9

10

Q. Could you turn to page 152 of
the chart, and it is a handwritten page in the middle
of the ICU notes. There is one handwritten page that
is not an ICU note apparently.

11

12

A. It doesn't appear in this chart.
Oh, I am sorry, I found it.

13

14

Q. Did you find it?

15

A. Yes.

16

Q. Do you recognize the hand-
writing in this note?

17

18

A. No, I do not.

19

Q. So you didn't write it?

20

A. No, I didn't.

21

Q. Do you have any idea why
reference was made to your two notes, and just above
it it says "digoxin"?

22

23

A. No, I do not.

24

25



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Q. Do you recall having any specific instructions regarding digoxin for this child?

4

5

A. I don't remember.

6

7

8

9

Q. Now to put this child into perspective you had worked the night before and had the constant care of Lillian Hoos and she had died. Do you recall talking to anyone about this child after this child had died as well?

10

11

A. I don't recall anything specific, no.

12

13

Q. Okay. Now this child was discussed in the September 5th M and M Conference?

14

15

16

17

A. Right.

18

19

20

21

22

Q. Prior to your leaving on your vacation did you know that there was going to be that conference taking place in the beginning of September?

23

24

25

A. No, I did not.

Q. Well, when you left on holiday there had been a number of deaths on the ward and a number of deaths regarding children that you were caring for. And you have told us that you were under a lot of stress.

A. Right.



1

2

3

Q. Did you discuss that with anyone before you went away, anyone at the Hospital?

4

5

6

7

8

9

A. I don't recall specifically. Again my recollection is that we had a number of very sick children and we had a number of deaths that occurred on the floor, and that was the type of discussion as to the stress and tension that nurses feel when they have sick children and then those children die.

10

11

Q. Now you have indicated a number of times that you had a number of very sick children.

12

A. Right.

13

14

15

Q. Aside from the fact that they died, who indicated to you that these children were any sicker than other children you had had on the ward for the preceding months?

16

17

18

19

20

21

22

A. It is just my recollection that the type of symptoms and the age of the children was significant to me and that in my experience on the floor I don't recall caring for children that were either - we seemed to get a number of very young children for one thing, and also as I say they seemed to display characteristics of very ill cardiac children.

23

24

25

Q. So it wasn't that someone had



1
2 indicated to you that these were sicker children:
3 it was your own impression?

4 A. That's right.

5 Q. When Phillip Turner was
6 discussed at the September 5th meeting did you have
7 any input into the discussion that you recall?

8 A. I don't recall.

9 Q. Well, was it generally the
10 doctors who did the talking and the nurses do the
11 listening or did they talk to the nurse who had the
12 care of the child the night of the child's death?

13 A. It was a conference, and
14 the physician gave a history and the results of
15 autopsy, and then they asked for feedback as to if
16 anyone had anything to add or anything to say, and
17 I don't recall if I said anything or not.

18 Q. So you just don't recall
19 whether you had anything to add?

20 A. I don't remember, no.

21 Q. Could you look at the Matthew
22 Lutes chart, please?

23 Now we have heard that you had the
24 care of this child in Room 418 with one other child?

25 A. Right.

Q. Do you recall having any



1

2

particular instructions with regard to this child?

3

A. I don't remember.

4

Q. Well, when you had a child would you have any access, for example, to the tour end reports if you were caring for a child?

5

6

A. It would depend. Not necessarily, no.

7

8

Q. Okay. Would you know, for example, if a child that you were caring for, such as Matthew Lutes, was on the tour end report for the shift that you came onto?

9

10

11

A. I could.

12

13

Q. Could the witness see Exhibit 360, Mr. Registrar?

14

15

Could you turn to page 65, Miss Nelles? Now that is the tour end report for the 16th of November and Matthew Lutes is on that report, and it is indicated that the child is unstable?

16

17

A. Right.

18

19

Q. Can you recall whether this instability was brought to your attention?

20

A. I don't remember specifically.

21

22

Q. Now on this night, the night of the 16th, Mrs. Trayner was in charge and had no patient assignments, and Mrs. Scott had two patients

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in 418 and two in 421.

Do you recall if when you took your breaks it was Mrs. Scott or Mrs. Trayner who looked after this child?

A. I don't remember.

Q. On a night where the team leader didn't have any children to look after, would it be common for the team leader to look after your children when you took a break?

A. I can't really say one way or the other. I don't remember.

Q. I am not asking you if you recall for this child.

A. It would depend on whether the other nurse was busy at the times that I required - but did you say I was on shared care with this child?

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G/BM/LN

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Q. Well, because you were only looking after two children there is a possibility. But I think in the second set of WIN sheets that we received, Mr. Commissioner --

THE COMMISSIONER: Which exhibit is that?

MR. LABOW: The WIN sheets for ward 4A.

THE COMMISSIONER: Is that 335?

MR. LABOW: I think it is 335A.

THE COMMISSIONER: All right.

MR. LABOW: It was the second set where we got the back pages.

THE COMMISSIONER: Oh, yes, yes.

MR. LABOW: If you turn to the WIN sheets of November 10th to November 16th.

THE COMMISSIONER: What was the date of Matthew's death?

MR. LABOW: It was early in the morning of the 17th of November. So it would be Sunday 16th.

If you turn to the back of that page, which is the next page in that exhibit, it indicates that on the 12th, 15th and 16th, Matthew Lutes had shared care for twelve hours.



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THE COMMISSIONER: Am I reading
this correctly, fifteen hours?

4

5

MR. LABOW: Fifteen, twelve and
twelve.

6

THE COMMISSIONER: Yes, all right.

7

MR. LABOW: And if we look at the
Assignment Book, at exhibit 32C, Tab 87, page 107,
it indicates that for the day shift on Sunday,
Matthew Lutes was in a room with two other children
and being cared for.

10

11

12

13

14

THE COMMISSIONER: The problem with
this line of questioning though, Miss Nelles
initially when this was put to her, whether it was
shared care, she also said that while he was her
patient she didn't remember.

15

16

MR. LABOW: Well, she wasn't sure
if she had been on shared care.

17

18

19

20

THE COMMISSIONER: Yes. You are
telling her now - I don't know, does this bring
anything back to you or are you merely accepting it
as is given to you.

21

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THE WITNESS: I don't remember, no.
THE COMMISSIONER: This is all
evidence. I mean, all these WIN sheets and every
thing else, you can always refer to them in argument



1
2 if you want to, but I don't think Miss Nelles has
3 any recollection of whether she had shared care
4 or anything else.

5 MR. LABOW: Oh, I understand that.
6 But if I can demonstrate to her that it appears
7 that the child was on shared care at night.

8 THE COMMISSIONER: All right, yes.

9 MR. LABOW: My question is whether
10 she might recall who relieved her or who would have
11 relieved her in that kind of a situation. You see,
12 it appears Miss Nelles that during the day Matthew
13 Lutes was in a room with two other children, that
14 the nurse having the care of him had the care of
15 Matthew Lutes and two other children.

16 A. Right.

17 Q. So, we can assume that he
18 wasn't on shared care at that time?

19 A. Right.

20 Q. And the WIN sheets seem to
21 indicate that he was on shared care for twelve
22 hours on the 16th?

23 A. Right.

24 Q. So, I am just putting to you
25 that we can assume that he was on shared care on
the long night shift?



4

1

2

A. Right.

3

Q. Now, if he was on shared care

4

the night that you had the care of him, do you recall
who relieved you that night?

5

A. No, I do not.

6

Q. Well, if you were on shared

7

care and Mrs. Scott had two children in that room
and two children in another room?

8

9

A. Right.

10

Q. Is it likely that she

11

relieved you?

12

A. She could have.

13

Q. I understand she could have,

14

is it likely?

15

A. It is a possibility, yes.

16

Q. Okay. Well, can you explain

17

to me how in a shared care situation where the nurse
is supposed to be looking after two children all the
time - is my understanding correct?

18

19

A. As I have explained it is

20

usually one child that is primarily of concern and
that the other child does not need to be on shared
care, it is just that you need two children.

21

22

Q. Then that being the case,

23

is it true that the nurse is supposed to look after

24

25



1
2 those two children exclusively?

3 A. Yes.

4 Q. Well, did you ever have an
5 occasion when you were on shared care where the
6 nurse who relieved you also had a number of other
7 children to look after?

8 A. Yes.

9 Q. Was that common?

10 A. Shared care was not common,
11 so, that is a difficult question to answer.

12 Q. Well, if shared care wasn't
13 common, it should be easier to answer, if you
14 didn't do it that often.

15 A. We did not do shared care
16 very often, no.

17 Q. Then when you were relieved
18 when you were on shared care did the nurse who
19 relieved you also have other children to look after
20 aside from the two that were on shared care?

21 A. She could have, yes.

22 Q. Did that happen often?

23 A. No, it did not.

24 Q. Now, you have indicated to
25 Mr. Lamek that this child was given the prescribed
doses, nothing else, and that no one else gave this



child any medication?

A. Right.

Q. Is that something that you
have assumed after looking through the charts?

A. The chart helps my recollection
yes, in terms of I can only assume that what was
signed was what was given.

Q. Okay, thank you. Now, can
you look at the Real Gosselin chart, please.

THE COMMISSIONER: I wonder -

MR. LABOW: Mr. Commissioner. I
don't know if I can finish this in three minutes,
so, this might be a good time to break.

THE COMMISSIONER: Yes, all right.

Before we do that though, I was
looking at the various papers that were filed on
nursing procedure I think by Mrs. Brown who was
formerly Miss Putherbough.

THE WITNESS: Right.

THE COMMISSIONER: There is
nothing there that establishes what shared nursing
care is, Miss Nelles, how it is affected and what
you are supposed to do.

THE WITNESS: There is nothing
there?



Nelles,
cr. ex. (Labow)

7
1
2 THE COMMISSIONER: Well, I don't
3 know but I just thought, is there no rule. Constant
4 nursing care is easy.

5 THE WITNESS: Right.

6 THE COMMISSIONER: You can't go
7 without being relieved by someone.

8 THE WITNESS: Right.

9 THE COMMISSIONER: Shared nursing
10 care, as you seem to think, that one of these
11 children is more, at least from your experience,
12 was always more in need of care than the other.
13 Are you supposed to leave that one child without --

14 THE WITNESS: I think it would be
15 less likely that you would leave the one specific
16 child. As I say, when shared care is ordered it
17 is usually ordered on one chart. So, for instance,
18 Matthew Lutes, it would be ordered that he be on
19 shared care but the other patient that the nurse
20 was assigned to the shared care would not be ordered.
21 I mean, you could be on shared care with any number
22 of children. It is usually only the one specific
23 that it is ordered for.

24 THE COMMISSIONER: Yes, all right,
25 thank you. I don't know whether to look at you,
Mr. Roland or Mr. Scott. I will look directly to



Nelles,
cr. ex. (Labow)

8

1

2

the wisdom and ask Miss Thomson if there is
anything on shared care in the hospital that we
might take a look at.

5

MR. SCOTT: You have got the
right approach.

6

7

THE COMMISSIONER: At any rate,
we will rise until 2:15.

8

---Luncheon recess

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---Upon resuming at 2:15 p.m.

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THE COMMISSIONER: Yes Mr. Labow.

4

MR. LABOW: Mr. Commissioner,

AA/DM/LN

5

with your permission, Mr. Shanahan has to be away

1

6

later this afternoon and tomorrow morning and I have

7

no objection to him interrupting me for about 15

8

minutes.

9

THE COMMISSIONER: Yes. All right,

10

Mr. Shanahan. It is not for you it is for the

Provincial Court we are doing this.

11

MR. SHANAHAN: Well it is a higher

12

calling Mr. Commissioner.

13

THE COMMISSIONER: Yes.

14

CROSS-EXAMINATION BY MR. SHANAHAN:

15

Q. Miss Nelles, my name is

16

Shanahan, and I act on behalf of the families of

17

Lombardo and Dawson. Now, first of all, with

18

respect to Lombardo I think we can clear that

19

matter up out of the way. I think you were off

20

during that period of time, I don't think you had

any dealings whatsoever with baby Lombardo.

21

A. No, I didn't.

22

Q. No recollection of the

23

child being spoken of, or any incident around that

24

child's death?

25



1

2

A. No.

3

Q. And specifically about a

4

Doctor having perhaps snipped the whole IV bag and

5

taken it and put it in his pocket, that was never

6

bandied about in your presence?

7

A. No.

8

Q. And again I think you answered

9

the following questions. You were not back on the

10

ward, and certainly did not attend any Christmas

party back on the ward either?

11

A. No.

12

Q. All right. That is Lombardo

13

aside, and we will not be quite as quick with Dawson.

14

With respect to Amber Dawson you

15

said that you did have an independant recollection

16

of this child, I think to a certain extent because

17

you had dealt with her before and you remembered

her mother?

18

A. Right.

19

Q. Would it be fair to sum up

20

and say it was an eleven month old baby girl who

21

had been in the hospital on prior occasions to

have various heart operations done?

22

A. Yes.

23

Q. They appeared on the surface

24

25



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to be successful insofar as she went from surgery
to the ICU, the ward, and on home with her mother
up to Sudbury.

5

A. Right.

6

7

8

Q. And you knew as well that
she had been receiving digoxin while she was out
of the hospital, and that her mother had been giving
that digoxin to her.

9

A. Yes.

10

11

12

13

Q. Back she comes then in July,
and you realized, I think you said it was for
failure to thrive, I think that was the wording you
used.

14

A. Right.

15

16

Q. Indeed that wording crops
up many times on that last admission, that seems
to be essentially the problem with Amber Dawson.

17

A. Right.

18

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Q. And right at the outset
then we are clear there was no precipitating
event that brought her back, as we will say Pacsai
or Cook or any of these children where they had
taken a bad turn. It seems to be that she was
readmitted sort of looking for calorie intake and
putting some weight on her.



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A. Well her diagnosis on admission, readmission, was failure to thrive.

4

Q. Yes.

5

A. But she had a past history, yes, for cardiac disease.

6

7

Q. No question on that. What I am saying the reason she came back in was simply on that issue of failing to thrive and not putting on weight and getting bigger?

8

9

10

A. Right.

11

12

Q. And she comes back in, I think she is in five days before she dies, is that right?

13

14

A. I believe so, yes.

15

16

Q. And she had not had any surgery while she was there and there was none immediately planned for the future for her either?

17

18

A. Not then, no.

19

20

Q. You had on the night she died, you had four in 418, one had been Amber Dawson, and Sui Scott had two in 418 with you, but she had others in other rooms?

21

22

A. Right.

23

Q. So 418 had a full house?

24

A. Yes.

25



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1
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3 Q. Amber Dawson was not on
constant or shared care?

4 A. No.

5 Q. And that too being a Doctor's
6 decision as to whether she should be on it, in
7 fairness, with some indication about their concern,
8 or lack of concern, insofar as they had not ordered
that she be on any one of those sort of categories?

9 A. Right.

10 Q. I think as well there was
11 nothing to suggest from your notes that you did
12 anything but take your normal breaks on that evening?

13 A. That's right.

14 Q. And I think you described at
15 one point in the evidence, I have the statute
16 reference here but I won't give it to you, I think
17 you tried to get a break in between eight and
midnight?

18 A. Right.

19 Q. And that there was another
20 it seemed to me a longer break from midnight until
21 about 2:30, do I have that roughly right?

22 A. I said that the major -
23 it seemed that things needed to be done around the
24 hours of midnight and 4:00 o'clock.

25 Q. Yes.



1
2
3 A. And so certainly when you
4 first came on the shift, sir, it would be unlikely
5 that you would take a break until after probably
6 9:00 o'clock, so that the first break would take
7 place sometime between 9:00 and midnight, and that
8 the second break would take place usually sometime
9 after 1:00, between 1:00 and 4:00.

10 Q. Between 1:00 and 4:00?

11 A. Around there, yes.

12 Q. Was there another one
13 beyond 4:00, not that it really concerns Dawson?

14 A. There could, there could be
15 if you were not particularly busy.

16 Q. Dawson not being on constant
17 or shared care it seems to me you could slip away
18 and take your break as you wished.

19 A. It would depend on what care
20 the other three children required.

21 Q. I mean insofar as you would
22 not have to locate someone to relieve for you.

23 A. No.

24 Q. If they were all relatively
25 stable, you could go on your way.

A. Right.

Q. And if you had any concerns



1

2

you could ask somebody to look in.

3

A. Right.

4

Q. Do you know who might have

5

relieved you, or whether you had relief that night?

6

A. I think it would be unusual

7

that I would have relief, if I was concerned about
someone I would go back to the room myself.

8

Q. You don't think then that

9

anyone formally would have relieved you that night?

10

A. No.

11

Q. And if you would just, on

12

the Dawson chart there, I am interrupting here

13

and probably caught you by surprise, the Dawson
charts. You have the flow sheet.

14

A. Thank you.

15

Q. There is a flow sheet on

16

page 98, Miss Nelles, it may be of no assistance

17

but we will take one last try, do you have that

18

located?

19

A. Yes.

20

Q. And the bottom is the 27th,

21

the long night shift would have commenced on the

22

27th of July and go over to the 28th, and she died

23

in the early morning hours of the 28th?

24

A. Right.

25



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Q. And it would seem to be your signature there for the vital signs for the 27th, do I have that right at the very bottom?

A. Right.

Q. And you are signed off two lines from the bottom.

A. On that page, yes.

Q. And then on the following page, in my copy the date is a little unclear, I think it seems to be the 27th of the 7th and the hours seem to run in sequence?

A. Right.

Q. And Nurse Ganassin has signed off on the right there, I am at a loss, can you explain that for me?

A. This is the child that I explained that I did the progress notes but neglected to sign off the medications, or finish the vital signs sheet, which leads me to believe that the chart was taken away before I had a chance or that because of my inexperience I didn't realize that it would be gone.

Q. But how does Nurse Ganassin's name appear there, maybe there is a simple explanation why does it appear?



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A. Well she on the 27th of the 7th, she signs off her notes at 19:00 which would be the end of that shift, and then my notes should appear from the 27th on until the 28th.

Q. So the ones on the previous page, ma'am, are you telling me they have no reference to the last night of Amber Dawson, they are not her vital signs for that night?

A. No, they are the night before.

Q. I thought I was maybe leading up to a version that maybe Nurse Ganassin had relieved you or something like that.

A. No.

Q. In any event there you can see on the last evening there of Amber Dawson's life, that in fact an IV line was put in place at page 80.

A. Right.

Q. I gather that up to this point there had been no IV line in place with Amber Dawson.

A. Right.

Q. And then on the 27th, the evening when you are watching her the IV line is put



10
1
2 in, you can see on the notes and I think you have
3 highlighted it before.

4 A. Right.

5 Q. Whose decision would it be
6 to put a IV line in?

7 A. It would have been Dr.
8 Reynolds.

9 Q. It would not be something
10 that you would undertake independantly yourself?

11 A. No sir.

12 THE COMMISSIONER: I think you
13 indicated to us you might well report poor feeding,
14 and as a result the IV line.

15 THE WITNESS: Right.

16 Q. Do you remember if in fact
17 you did recommend that?

18 A. It says here Dr. Reynolds
19 was notified regarding the baby's poor nutritional
20 status and lethargy.

21 Q. That well could be yourself.

22 A. I would have notified her,
23 yes, or I would have asked Mrs. Trayner to pass
24 that information along.

25 Q. As a result then an IV line
would be put in to rectify that problem, and then



11

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3

4

it is in that same night after the IV line has been
put in place that in fact Amber Dawson gets ill
and dies?

5

A. Right.

6

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14

Q. Again that famous disagreement
here, or not disagreement, discussion, what have you,
with respect to yourself and Nurse Trayner. I
wondered why given the inexperience that you pro-
fessed to have at the time, why at all you would
even take on, if you like, or confront (A) your
team leader; and (B) another nurse who was really
more experienced than you at all, when she is
really, when she appears to be showing an excess
of caution if you like in calling the 25.

15

16

17

18

A. I did not feel that the child
had arrested and that she did not warrant a 25.

19

20

21

22

23

24

25

Q. And that was evident to you
regardless of experience, you had thought she
still had a heart rate?

A. That's right.

Q. And you thought it was
excessive to call a code 25.

THE COMMISSIONER: And also
dangerous.

THE WITNESS: Yes.



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THE COMMISSIONER: It is dangerous to- if the heart is still beating, isn't that right.

THE WITNESS: That is right. To initiate CPR when you still have the heart rate can be dangerous.

Q. In any event as Mr. Lamek put it to you, events took over and that as the two of you differed, or had a difference of opinion, that in fact it became evident that there was no heart rate and indeed a 25 was necessary.

A. Right.

Q. It struck me, Miss Nelles, that you and Mrs. Trayner would have differed for a minute, half a minute, you didn't seem to make a great deal of it.

A. No, it wasn't a long period of time.

Q. Really what impressed me about that was that at some point in time prior to the arrest taking place Amber Dawson is stable, at some point in time then you see the difficulties and see her get into the difficulties that you described in the notes, and you call Phyllis and you think a 23 is deserved.

A. Right.



ANGUS, STONEHOUSE & CO. LTD. Nelles, cr.ex.
TORONTO, ONTARIO (Shanahan)

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MT/cr

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Q. And really within seconds or minutes she goes from a 23 to clearly, no dispute, a 25?

A. Right.

Q. And an all out 25 is called?

A. Right.

Q. What struck me really then was within a space of two to three minutes Amber Dawson, her condition has really done a complete, and I appreciate and I am mindful of the fact there was some deterioration prior to that but she has gone in the space of two or three minutes to a complete rapid deterioration in her condition?

A. That is right.

Q. I see. I know babies went quickly here during this period. Right then and there was that not a very shocking thing or do you you have a recollection that Amber Dawson was really deteriorating to the point of no return even as you were talking to her - talking to Phyllis Trayner?

A. I am sorry?

Q. I say I appreciate that babies have taken a turn for the worse very quickly.

A. Right.

Q. But even as you spoke to



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2

Phyllis Trayner Amber Dawson is deteriorating to the point of no return.

3

4

A. Well, she was --

5

Q. Did that itself strike you as being extremely sudden?

6

7

A. Well, she had displayed at this point when she first displayed characteristics that warranted a 23 --

8

9

Q. Yes.

10

11

A. At that point she, as I say, she displayed the characteristics described here, and then her heart actually stopped.

12

13

Q. Yes. But my only thing is that she goes from a 23, and you were insisting on a 23, rightfully so because you felt there was still a beat and she was still alive --

15

16

A. Right.

17

18

Q. - to a 25 in the space of seconds, as you and Phyllis disagree?

19

A. Yes.

20

21

Q. I am saying to you I thought as I was an onlooker here and heard that evidence that it would seem to indicate to me an extremely quick deterioration?

22

23

A. Often that seems to be the case

24

25



1

2

or seemed to be the way once they got into difficulty.

3

Q. Okay.

4

A. They weren't - there often was a period of two or three minutes when they still had a heart rate.

6

Q. Yes.

7

A. And then completely arrested.

8

Q. All right. Her death was

9

obviously sudden and unexpected. I think Dr.

10

Jedeikin left a note there on page 84 that in fact it

11

was sudden and unexpected; you reacted to that, "a

12

sudden rapid deterioration" on that chart that is in

13

front of you. Do you have that located? "Sudden recent deterioration and collapse".

14

A. Right.

15

Q. Dr. Reynolds wrote a note

16

as well that her cause of death was uncertain and

17

that is as well contained in the notes there. It

18

struck me that in fact the nurses themselves obviously

19

reacted to the fact that her cause of death was

20

uncertain. Was that correct?

21

A. At what point in time?

22

Q. Well, shortly after her death.

23

A. I think - I think you could say that, yes.

24

25



1 Q. All right. As well as that,
2 ma'am, you had dealt with Mrs. Dawson. I would
3 suggest to you that Mrs. Dawson at her death is -
4 I am mindful that all parents I am sure were dis-
5 traught and upset but I would suggest to you that
6 Mrs. Dawson really was as well politely insistent
7 that she did not accept the explanation for the cause
8 of death that she had been given.

8 A. I never saw Mrs. Dawson after
9 Amber's death, but that was conveyed to me, yes.

4 10 Q. All right. And I would suggest
11 to you as well that it was conveyed to you by others
12 that in fact quite apart from giving her consent to
13 an autopsy, that in fact such was her concern about
14 the cause of death that she wished a coroner to be
15 involved on the basis that she, mistakenly, felt
16 that a coroner would not be using a Hospital for
17 Sick Children pathologist.

17 Did that whole train of thought get
18 conveyed to you as well?

19 A. I certainly knew that she
20 had requested a coroner's inquest.

21 Q. All right. Did you know the
22 reason why she had requested a coroner's inquest?
23 That is, the use of an outside pathologist?

24 A. It was my understanding that
25



1
2 she was not satisfied with the explanation of her
3 child's death, and that that was her reason for
4 requesting --

5 Q. All right.

6 A. - a coroner.

7 Q. And that localized around the
8 factors I had spoken to you earlier: the reason why
9 she was in hospital, the length of her stay, the fact
10 she hadn't had any surgery and none was planned, and
11 the fact that she had suddenly deteriorated. These
12 were the sorts of concerns that obviously were
13 raising mother's hackles, if you like?

14 A. As I have said, what my
15 understanding was was what I said.

16 Q. Ma'am, in looking back from
17 the perspective of March - I appreciate by March
18 the lid is coming off here and Pacsai - there was
19 concern about Pacsai and^{the} question of a coroner, but
20 I am suggesting we will say just pre-Pacsai, if you
21 were to look back over that period of time, that in
22 terms of the surrounding circumstances in Amber
23 Dawson's death; that is, there was obviously nursing
24 concern - I think you gave to Mr. Lamek in chief -
25 Contreras was concerned, Dr. Contreras, Dr. Reynolds,
the notes in the communication book with respect to



Nelles, cr.ex.
(Shanahan)

1 the cause of death for Amber Dawson, the mother
2 insisting on the coroner, and the fact the coroner
3 being called in, I would suggest to you that her death
4 really is the most prominent, if you like, and the
5 surrounding circumstances of her death are the most
6 prominent in that previous nine months?

7 A. I do not look at it that way.

8 Q. All right. I would suggest
9 that if you were to look back over those previous
10 months and that string of deaths, that in fact
11 Amber Dawson's death and surrounding circumstances
12 and the concerns expressed, really stick out the most?

13 A. Again I do not feel that.

14 Q. All right. You say you don't
15 feel that way. Is it because there is another child
16 was just as problematic or is it just you don't
17 interpret or set the events up the way I have?

18 A. I don't recall feeling any of
19 those things when Amber Dawson died, and I never was
20 asked to look at her death again until the similar
21 fact evidence was introduced and I never had any
22 reason to question it.

23 Q. All right. But you will agree
24 with me that those factors that I pointed out to you,
25 a parent's concern to the extent of wishing an outside
pathologist and the coroner to be involved, the



1
2 nursing concern, and they were always concerned but
3 a real concern that came through in the communications
4 book records about her cause of death, doctors'
5 concern - I am suggesting to you in fact then if you
6 perhaps didn't look at it the way I did that as you
7 do look at it now no other death that I could see
up to Pacsai enjoyed all those features?

8 A. I think too also surrounding
9 Amber Dawson's death was a discussion that she had
10 some underlying physiological cause of her failure to
11 thrive. In other words, that there was some either
12 defect or something causing her failure to thrive,
13 and one of the things that was discussed was perhaps,
14 as I say, something to do with her actual physiology,
15 and one of the things that came up at the inquest and
16 one of the things that I can remember reading was
17 this problem with the diaphragm and that that could
18 have been one of the reasons for her failure to
thrive and her problems with eating.

19 Q. Yes. In the communications
20 book it indicates and I will just read it - I don't
21 think there is a great need for you to have it in
front of you - it is about Amber Dawson:

22 "The post mortem showed abscess on
23 diaphragm. The coroner told mom about
24
25



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"this and that it would be difficult to
diagnose even with X-ray. Full report
is to follow in two months time."

5

A. Yes.

6

Q. That is what you are referring
to, the abscess on the diaphragm?

7

A. Yes.

8

Q. All right. Two months later
would be roughly October, and in October there was,
and it is in the records that you have in front of
you, the coroner's - the pathologist's final report.
It starts on page 59 there, and I am sure that you
perhaps in two months time had other things on your
mind than to look it up, and I think it is evidence
perhaps that you never had this final report given
to you until the preliminary?

16

A. I never saw it.

17

18

19

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Q. All right. But really it
would be cold comfort here for you or for anyone
to read that as the cause of death there, the
specific paragraph, which is paragraph 8 on page
63, but it set out here that the pathologist who was
Dr. Cutz says there was no immediate anatomical cause
of death - was not determined.

23

A. But I did not know that.

24

25



Nelles, cr.ex.
(Shanahan)

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Q. You didn't know that. All

3

right.

4

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7

A couple of things here: you said that you knew, and I think you have given evidence that in fact you knew what some of the symptoms of digoxin toxicity were. Vomiting and various heart arrhythmias.

8

A. Right.

9

10

11

Q. All right. Did you know at the time whether in fact there was any routine testing post mortem for digoxin toxicity?

12

A. At that time?

13

Q. Yes.

14

A. No, I did not, I did not.

15

Q. You didn't know whether there was or wasn't?

16

A. Right.

17

18

19

Q. All right. With respect to you coming to the Hospital for Sick Children, Miss Nelles, you came in October 1979, up onto the fifth floor; is that right?

20

21

A. I first went to the sixth floor.

22

23

Q. The sixth, and then into the fifth?

24

25



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A. Right.

3

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Q. Worked with or near Phyllis
Trayner but not specifically with her other than a
few isolated occasions?

5

6

A. I only recall orientating
with her.

7

8

9

Q. All right. Worked there without
incident yourself and she appeared to work there
without incident up there of 5?

10

A. As far as I know, yes.

11

12

Q. All right. No difficulties
between you and her and no rise in deaths that you
were aware of?

13

14

A. I don't remember working with
her.

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Q. All right, down on to 4. You are down in April when 4 is constituted and so is Phyllis Trayner but you are not on her team any more.

5

A. Right.

6

7

Q. All right, you joined her team some three months later?

8

A. Right.

9

Q. In the intervening three months you worked there without incident?

10

A. Right.

11

12

Q. All right, you joined her team in June?

13

A. Right.

14

15

Q. All right. And then it is in June here that this epidemic period as we have defined it commences, I think June 30th?

16

17

A. Right.

18

19

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Q. Okay. Were you aware of anyone else, I appreciate the difficulties you had and you expressed them to Mrs. Radojewski and later confronted Mrs. Trayner, but it didn't strike me that anyone else had gone to the point that you had gone to to actually complain, for want of a better word, of Phyllis Trayner to Radojewski. Did you know of anyone else that had gone that far to



1

2

actually take a formal complaint to a head nurse?

3

A. Not that I know of.

4

5

Q. No. Did you know if Phyllis Trayner to her credit whether she in fact had gone and complained to anybody let alone yourself?

6

7

A. No.

8

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A. Right.

Q. All right. And then of the 22 that you were on for 12 were in your direct care?

A. Right.

Q. 11 were on 4A and then one was on 4B?

A. Right.



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Q. Of all the babies then that died on 4A or that you were on for 4A, it would be 21 of the 22, 19 of the 21 were in 418.

THE COMMISSIONER: 21 were in what?

MR. SHANAHAN: 21 were in 418 and then Estrella --

THE WITNESS: Excuse me, but --

MR. SHANAHAN: Q. -- and Miller were in 423. Is the chart giving you some problems or my numbers?

A. The 22 I believe is the number of deaths that I was on the floor for.

Q. That's right.

A. So, they could have been on 4B, there were a number that were on 4B as well.

Q. Well, I think, unless I have it wrong here, as you look down column 3 it says Room and Ward. Do you have that, starting at the left hand coming in?

A. Right.

Q. And I only just went down and counted them. It struck me of the 21 that were on 4A, you had one there on 4B but of the 21 there 19 of the 21 were in 418 and then of the 12 or the 11 on 4A that you were directly in charge of 10 of



1

2

them were in 418.

3

4

THE COMMISSIONER: I take it you
have done these mathematics, Mr. Shanahan?

5

MR. SHANAHAN: I have.

6

7

THE COMMISSIONER: I don't accept
them just like this but if you have done them.

8

9

MR. SOPINKA: We have had all the
permutations and combinations, it doesn't help to
repeat it, why don't you put your question.

10

11

12

MR. SHANAHAN: I'm going to put
my question I was just waiting for his witness to
have a chance to look up the numbers.

13

14

Q. All right, 418 is the closest
room to the nursing station, is it not?

15

16

A. 431 and 418 are equally as
close, yes.

17

18

19

Q. 431 will be 4B's closest room?

20

21

22

23

24

25

A. Right.

Q. And 418 will be 4A's closest
room?

A. Right.

Q. 418 is also the closest room
to the medication cabinet where the digoxin was
kept unlocked.

A. Right.



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Q. All right. And then of course 4B, the same would apply to 431 that there would be a medication cabinet right there beside that?

A. Right.

Q. All right. Finally then with respect to the time that Phyllis Trayner actually comes to you on the gentamicin dose. In fairness there you haven't seen the gentamicin drawn up, let alone drawn up from that vial?

A. I don't believe so, no.

Q. All right. You don't see it given to any child let alone the Miller child?

A. No.

Q. All right. And I think you agreed to Mr. Olah that in fact it is a clear and colourless liquid just the same as the digoxin is?

A. Right.

Q. All right. When Dr. Jedeikin asked you on Cook with respect to the IV lines there was some discussion there about the goings and comings and retrieving the IV from the garbage and taking samples. Did Dr. Jedeikin direct you to take clippings or snippings from specific lines or did he in fact, as I gather, he left the nursing station and you got about it yourself.



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A. Dr. Jedeikin asked me to help him.

4

Q. Yes.

5

6

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9

A. And I went back with him to the room and I helped him to find the intravenous lines which were in the garbage and I took them out of the garbage and he took the samples that he required.

10

Q. All right. He took the samples?

11

A. Right.

12

Q. He did the snippings himself?

13

A. Yes.

14

15

Q. That answers it. Thank you, ma'am, I have no further questions.

16

THE COMMISSIONER: Thank you.

17

Mr. Labow?

18

CROSS-EXAMINATION BY MR. LABOW: (Continued)

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Q. Miss Nelles, I would like to ask you about Real Gosselin. You should have the chart there. You had the care of Real Gosselin on the night of his death and you also had two other children in Room 418?

23

A. Right.

24

Q. Okay. We have heard that

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Phyllis Trayner was in charge that night and she also had a child in another room. Now, this child had only been admitted the day before. Did you know when you were caring for this child that on admission they had found his digoxin level to be in a range almost at 4, it was either 3.7 or 3.9?

A. I don't remember that.

Q. Now, his digoxin had been put on hold. I assume that you knew his digoxin was on hold?

A. I'm sure I did, yes.

Q. Did you have any understanding as to why his digoxin was on hold?

A. I am sure I was probably told at the time but I don't have any recollection of that.

Q. Do you recall receiving any special instructions for the care of this child?

A. I don't remember.

Q. Now, in your note you indicate that the mother and father were in to visit.

A. Right.

Q. If I tell you that it is my information that they were in the room when the child's monitor went off, does that refresh your



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memory in any way?

A. I don't remember, no.

Q. Do you recall talking to the
parents at all that night?

A. I don't remember.

Q. After the child died do you
recall who spoke to the parents?

A. I don't remember.

Q. Well, on page 46 in Dr. Rose's
note at the top, it's in the middle of the page,
she notes that she talks to the parents. Do you
recall being with her when she talked to the parents
about this child's death?

A. I don't remember.

Q. Does it help your recollection
if I tell you that Dr. Rose allegedly said to the
parents she couldn't understand why the child had
died so quickly?

A. I don't remember.

Q. Do you know when you wrote
the first nursing note on page 46?

A. I would have written it after
the child had died.

Q. So, again, you wrote the first
note and then you separated the notes because there



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had been a material change in the child's condition?

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A. Just that from 1900 to 0200 I could link certain things and as of 2:15 a different set of events occurred.

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Q. Now, in your note on page 46 for 1900 to 0200 I don't see any bradycardia being mentioned.

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A. No.

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Q. But there is in your second note an indication that the child continued to be bradycardic.

12

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A. The note starts off saying that his apex was 72.

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Q. And that's very slow for an infant?

16

A. Yes, it is.

17

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Q. Now, could you turn to page 45. At the bottom note, that's one of Dr. Rose's notes, she indicates in the fourth line that there was no bradycardia. Do you see that note? It's the fourth line of the note.

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A. Are you looking at the bottom of the page?

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Q. The bottom of the page, that's a note from Dr. Rose we have been told.

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Nelles, cr.ex.
(Labow)

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A. Okay.

Q. And in the fourth line of that note after the first word it says "No bradycardia".

A. Right.

Q. Do you recall discussing this matter with Dr. Rose at all?

A. No, I do not.

Q. If you have the care of a child is it general that the doctor who came in would talk to the nurse in charge of the child to see how the child had been over the evening?

A. It usually was not the cardiologist that would be involved, it would be the fellows or the residents.

Q. Well, do you recall talking to any of the fellows or residents that night about the condition of this child?

A. I don't remember.

Q. Do I take it correctly that Dr. Rose wrote her note prior in time to you? Were they all written in a - were all the pages here put together and you just followed along and wrote your note after the other notes had been written?

A. I cannot assume that. Sometimes we would leave spaces so that the physicians



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could put their notes in. I don't remember.

3

Q. You don't recall one way or

4

the other?

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A. No, I do not.

6

Q. Do you recall being told that

7

this child was in danger, imminent danger of dying
that night?

8

A. I don't remember.

9

Q. Would you look at Barbara

10

Gionas' chart.

11

Now, on the night of Barbara Gionas'

12

death you were the team leader.

13

A. Right.

14

Q. And Phyllis Trayner was in

15

charge of this child and three others in Room 418?

16

A. Right.

17

Q. And from what I can see from

18

the assignment books Phyllis Trayner was the only
nurse who had any children in 418. Now, as the

19

team leader would you have read the tour end report
that night?

20

A. Yes, I would have.

21

Q. And would you normally as a

22

team leader check the patient's chart to see what

23

had gone on in the last day or two with the child?

24

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A. Not necessarily, no.

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Q. Okay. Do you recall if you

4

were aware that one of the residents' impressions

5

for this child was that the child had digoxin,

6

was exhibiting signs of digoxin toxicity?

7

A. I don't remember.

8

Q. You don't remember. Do you

9

recall whether you watched Mrs. Trayner's children

10

when she took her break that night?

11

A. I don't remember. It would be

12

unlikely since the children were not on constant
care.

13

Q. Okay. Well, if they weren't

14

on constant care and Mrs. Trayner was taking, for

15

example, her long break, would she tell you that

16

she was leaving the floor if she was leaving the
floor?

17

A. If she was leaving the floor

18

she would tell me, yes.

19

Q. Now, if she was just going

20

into the nursing station to eat, would she advise

21

you that she was taking her break, as team leader?

22

A. No, she would not.

23

Q. Okay. Could you look at the

24

tour end reports, that's Exhibit 360, and turn to

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page 140.



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That is the tour end report of the
8th of March. Now, as team leader, you would have
probably checked that report?

A. Yes.

Q. And was it common for a tour
end report to indicate that digoxin was on hold for
a child?

A. It could, yes.

Q. Now, this tour end report
does indicate digoxin on hold. Would you have tried
to find out why, do you recall?

A. I don't remember.

Q. Now, you told the Commissioner
that, as team leader, it was part of your job to be
aware of problems on the ward and, in particular,
your children.

A. Right.

Q. Do you have any recollection
whether you considered Barbara Gionas to be a parti-
cularly ill child?

A. I remember things about her,
yes. I remember that she was a baby that spent a long
time in the intensive care, so I remember some things
about her, yes.

Q. Now, she had been back on the



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ward for about a week or so, a little more than a week. In that time, do you recall whether there was anything particular about Barbara Gionas that comes to mind?

A. I don't remember.

Q. Could you look at page 184 of the chart. Now, about half-way down we have the 8th of March beside digoxin and there is a signature on the line where it says "error".

A. Right.

Q. Do you have any idea whether that was a medication error or someone signing in error, or do you know one way or the other?

A. The name is scratched out and it is written, "error", and then her initials beside it, which would indicate that she had signed it by mistake, so she crossed that out.

Q. Now, if you look at page 77, that was Mrs. Trayner's final nursing note.

A. Right.

Q. Do you recall Mrs. Trayner notifying you when this child went into difficulty?

A. I don't remember specifically; I am sure she would have.

Q. She writes about half-way down:



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"Team leader was notified and within minutes of calling team leader, Barbara's apex started to fall." Does that refresh your memory at all?

A. I don't remember.

Q. Do you recall anything in particular about what went on during Barbara Gionas' arrest and resuscitation?

A. I don't remember, no.

Q. Now, you commented that you were aware of the medication error for Kristin Inwood.

A. Right.

Q. Do you recall if you were aware of it at the time or during your preliminary inquiry?

A. I was aware of it at the time.

Q. Do you recall if there was any discussion about her medication error at that time? Did the nurses talk about it at all?

A. I remember the incident report being filled out that morning and, as I say, the ward that particular morning, I would describe as chaotic, and the nurses involved were very upset. That it had been, as I say, such a chaotic morning, it would



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not be a morning that you would be surprised, I
don't think, that a mistake like that could happen.

Q. Now, Kristin Inwood died the
next morning and you were on the other ward. Was there
any discussion at that time about Kristin Inwood's
death?

A. The only thing I recall is
that someone mentioned that this was the child that
the medication error had occurred on that morning.

Q. But other than that, there
was no discussion that you can recall?

A. I don't remember any, no.

Q. Now, we have heard that during
your orientation Mrs. Radojewski mentioned clustering,
clusters of deaths.

A. That is my recollection, that
somehow I got the impression that deaths seem to,
for some reason, come in groups often.

Q. Now, were you aware of that
kind of thing when you were in Vancouver?

A. No.

Q. You started to work at The
Hospital for Sick Children in October of 1979?

A. Right.

Q. In the nine months to July of



1
DD5 2 1980, do you recall there being any clusters of
3 deaths?

4 A. No.

5 Q. Do you recall what Mrs.
6 Radojewski mentioned about clustering?

7 A. I just recall that she said
8 something to the effect that they, the deaths, some-
9 times came in groups; that they wouldn't have any
10 for a long time and then they would have several
11 grouped together.

12 Q. So, the first cluster of
13 deaths that you were aware of was the cluster in
14 July?

15 A. Right.

16 Q. From the 22nd of July to,
17 let's say, the 1st of August, there were five deaths
18 on 4A/B?

19 A. I just recall it as being the
20 July/August time.

21 Q. When that happened, did you
22 approach anyone to discuss this clustering, such as
23 Nurse Radojewski?

24 A. As I have said, we were all
25 concerned about the number of deaths.

Q. Did anyone -- what I am asking



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you is, did anyone bring up the idea that this was just a cluster of deaths and that it happened or had happened before, not unexpectedly?

A. I felt that there were a number of sick children that we had at that time and that, unfortunately, they seemed to be dying.

Q. No. I understand that. I am asking you, do you recall anyone saying to you, oh, this is just a cluster of deaths? I mean, we all feel bad, but there is nothing we can do about it; it is just a cluster.

A. I don't recall that wording, no.

Q. Okay. When Matthew Lutes died on the 17th of November, between then and the 18th of December, in that month, there were another four deaths. Did anyone mention the cluster theory then?

A. No.

Q. Now, if we go to March, between March 7th and March 13th, six children died. Did anyone mention the clustering theory then?

A. I think that was my wording. That was my way of looking at the deaths. As I have explained, I looked at a group, or I thought of it in



DD7 1
2 terms of two groups - one, July/August and one as
3 of March.

4 Q. When did you develop this
5 two-group idea? When did it come to you that there
6 was a big group in July and a big group in March?

7 A. I recall that when I went
8 on holiday in August, we had been faced with a number
9 of deaths and that that was a particularly stressful
10 period of time; then the next period of time that I
11 recall as being similar to that one was March.

12 Q. And now, in March, we have a
13 situation where Colleen Warner dies on the 7th of
14 March and you are the team leader. Barbara Gionas
15 dies on the 9th of March and you are the team leader.
16 Kevin Pacsai dies on the 12th of March and you had the
17 care of the child prior to his transfer to ICU. Other
18 than that - three children died while you were on
19 duty.

20 A. Right.

21 Q. When that series of deaths
22 occurred, do you recall any discussion between the
23 nursing staff, right then, around the 13th, of this
24 large number of deaths?

25 A. Yes.

Q. What did the nursing staff



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think at the time? What kind of discussions did you have, aside from the fact that you felt the stress?

A. That is my recollection of the type of discussion that we had; that it arose from the stress and having to cope with the deaths.

Q. So, the nurses did not discuss the deaths per se; they discussed the stress that they felt from the deaths?

A. And after each individual death, there may have been some discussion of - I don't recall anything specific.

Q. As opposed to discussion after each individual death about the deaths, were there any discussions about all these deaths clumped together, aside from stress?

A. I don't really think we can separate them. There were an increased number of deaths and because of that there was an increased amount of stress.

Q. Okay. No one questioned the fact that this many children had died in these few nights?

A. Not questioned it; we made note of it, yes.

Q. Who did you make note of it to?



DD9

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A. As a group.

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Q. Just together?

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A. I guess, yes.

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Q. Now, there had been mortality

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conferences in September and there was some kind of
conference in January for the doctors to discuss the
deaths. Was there any discussion about having that
kind of conference in March --

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A. I don't know.

10

Q. -- to have the doctors explain

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this to you?

12

A. I don't remember.

13

Q. You have already told me that

14

you didn't know about the first mortality conference
when you went away on vacation in mid-August.

15

A. I attended the first mortality

16

conference.

17

Q. No. I know you attended but

18

prior to leaving on your holiday, you didn't know there
was going to be one taking place?

19

A. I don't think so, no.

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Q. Do you know when you heard

21

about it?

22

A. When I returned.

23

Q. Did you have any idea who

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DD10

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2 instigated the conference?

3 A. I don't know who instigated it.

4 Q. Do you know if the nurses
5 had asked for that kind of conference to take place?

6 A. I don't know.

7 Q. Now, there is a copy of
8 Exhibit 309 somewhere around you. That is Nurse
9 Costello's notes. Have you seen these notes before?

10 A. No, I have not.

11 Q. On page 4, Nurse Costello,
12 about half-way down the page, writes some notes about
13 the evening meeting and she notes that:

14 "There was a meeting at Liz' home
15 to support staff and let them express
16 their fears and worries."

17 A. Right.

18 Q. Now, she also notes that she
19 recalls you saying a number of things:

20 "In retrospect, remember Susan
21 saying..."

22 Do you see that?

23 A. Yes.

24 Q. Could you read that over and
25 tell me if it accords with your recollection as to
what you said?



DD11

MR. SOPINKA: I thought we were precluded from going over that because it is Phase II.

THE COMMISSIONER: Some of it is relevant and some of it is not. That is the difficulty of asking that general question. Obviously, if you are asking about what she is alleged to have said with respect to Kevin Pacsai, that is relevant to this issue. Is that the part that you are concerned about?

MR. LABOW: Yes.

THE COMMISSIONER: Then, perhaps you can tell us if that accurately or reasonably represents what you said.

MR. LABOW: Q. Forgetting about the first phrase, it is written there:

"I know I didn't do anything wrong.
I know I measured digoxin carefully.
I remember small amount in syringe,
plunger not far out, one squirt,
checking with Mary Jean, giving
Kevin Pacsai..."

And I can't read that word.



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A. Right - right card, right baby.

Q. "We will get through this. Must stick together and support each other."

A. Right.

Q. Is that --

THE COMMISSIONER: Well, that last part I don't want.

MR. SOPINKA: And in any event I mean she went over this and she said what she said. I know it is a long time ago, but if my friend has some question arising out of that --

MR. LABOW: I have a question arising out of this statement, Mr. Sopinka.

MR. SOPINKA: To merely say what did she say - I mean we can do that until the cows come home.

MR. LABOW: I had no intention of reading this out, Mr. Commissioner. I only wanted to know if what Nurse Costello wrote was accurate about Kevin Pacsai, and I do have a question about the last part.

THE COMMISSIONER: The last part is the part that is clearly Phase II.



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MR. LABOW: Well, that all depends on what it is referring to, and this is the witness who allegedly said it. That is why I would like to know if it is accurate.

THE COMMISSIONER: Well, you certainly want to get it from the witness who said it, you want to find out whether it is accurate or not, but what has it got to do with --

MR. LABOW: Well, my question is going to be what did you mean by "We will get through this. Must stick together and support one another.", when she had just reviewed the situation and had been very certain about what she had given.

THE COMMISSIONER: Yes.

MR. LABOW: And what she had done with regard to Kevin Pacsai.

My question is what did they have to get through together about? And it relates specifically to what was said here, and I don't want to put it to her if she doesn't agree that is what she said.

THE COMMISSIONER: Well, I would think that that last part has nothing to do with the cause of death. It may have something to do with Phase II. I would think that, but if anybody thinks - do you think it has something to do with the cause of death,



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do you?

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MR. LABOW: Yes, I do.

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THE COMMISSIONER: Well, all right.

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First of all, Miss Nelles, is that
roughly what you say?

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THE WITNESS: I did not write this
note, and my understanding is that Mrs. Costello wrote
in retrospect remember Susan saying it and she has
listed a number of things that she heard me say.

9

10

MR. LABOW: Right.

11

THE COMMISSIONER: Well, is it
accurate, though?

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THE WITNESS: Basically, yes.

14

THE COMMISSIONER: All right.

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MR. LABOW: Q. Well, my question is
with regard to the last part. Were you referring
specifically and only to the Kevin Pacsai inquest
that was upcoming?

18

19

A. You are linking "We will get
through this, must stick together" to the previous
statement?

20

21

Q. Well, I am asking should they
be linked?

22

A. No, they should not.

23

Q. Well then what were you referring

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2 to?

3 A. I think you have to understand
4 that that was a meeting of all the nurses on the
5 floor, and that there were a number of things
6 discussed at that meeting, and we certainly knew
7 there was an investigation going on, and it was my
8 feeling that we said -- everyone conveyed the
9 thought that we would stick together.

10 Q. So did it have to do with the
11 fact that you were all under this severe stress?

12 A. And that there were things
13 going on on our floor, the inquest into Kevin Pacsai,
14 and another form of investigation, and that we needed
15 each other's support.

16 Q. Okay. Well then my question
17 really has to do with the Kevin Pacsai situation.
18 You apparently were quite certain as to what went
19 on with your giving the digoxin to Kevin Pacsai.

20 A. Yes.

21 Q. And at that meeting you
22 checked with Mary Jean Halpenny about it and she
23 confirmed what you believed?

24 A. Right.

25 Q. My question is what did you
have to support each other about and --



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you is, did anyone bring up the idea that this was just a cluster of deaths and that it happened or had happened before, not unexpectedly?

A. I felt that there were a number of sick children that we had at that time and that, unfortunately, they seemed to be dying.

Q. No. I understand that. I am asking you, do you recall anyone saying to you, oh, this is just a cluster of deaths? I mean, we all feel bad, but there is nothing we can do about it; it is just a cluster.

A. I don't recall that wording, no.

Q. Okay. When Matthew Lutes died on the 17th of November, between then and the 18th of December, in that month, there were another four deaths. Did anyone mention the cluster theory then?

A. No.

Q. Now, if we go to March, between March 7th and March 13th, six children died. Did anyone mention the clustering theory then?

A. I think that was my wording. That was my way of looking at the deaths. As I have explained, I looked at a group, or I thought of it in



DD7 1
2 terms of two groups - one, July/August and one as
3 of March.

4 Q. When did you develop this
5 two-group idea? When did it come to you that there
6 was a big group in July and a big group in March?

7 A. I recall that when I went
8 on holiday in August, we had been faced with a number
9 of deaths and that that was a particularly stressful
10 period of time; then the next period of time that I
11 recall as being similar to that one was March.

12 Q. And now, in March, we have a
13 situation where Colleen Warner dies on the 7th of
14 March and you are the team leader. Barbara Gionas
15 dies on the 9th of March and you are the team leader.
16 Kevin Pacsai dies on the 12th of March and you had the
17 care of the child prior to his transfer to ICU. Other
18 than that - three children died while you were on
19 duty.

20 A. Right.

21 Q. When that series of deaths
22 occurred, do you recall any discussion between the
23 nursing staff, right then, around the 13th, of this
24 large number of deaths?

25 A. Yes.

Q. What did the nursing staff



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think at the time? What kind of discussions did you have, aside from the fact that you felt the stress?

A. That is my recollection of the type of discussion that we had; that it arose from the stress and having to cope with the deaths.

Q. So, the nurses did not discuss the deaths per se; they discussed the stress that they felt from the deaths?

A. And after each individual death, there may have been some discussion of - I don't recall anything specific.

Q. As opposed to discussion after each individual death about the deaths, were there any discussions about all these deaths clumped together, aside from stress?

A. I don't really think we can separate them. There were an increased number of deaths and because of that there was an increased amount of stress.

Q. Okay. No one questioned the fact that this many children had died in these few nights?

A. Not questioned it; we made note of it, yes.

Q. Who did you make note of it to?



1
DD9 2 A. As a group.
3 Q. Just together?
4 A. I guess, yes.
5 Q. Now, there had been mortality
6 conferences in September and there was some kind of
7 conference in January for the doctors to discuss the
8 deaths. Was there any discussion about having that
9 kind of conference in March --
10 A. I don't know.
11 Q. -- to have the doctors explain
12 this to you?
13 A. I don't remember.
14 Q. You have already told me that
15 you didn't know about the first mortality conference
16 when you went away on vacation in mid-August.
17 A. I attended the first mortality
18 conference.
19 Q. No. I know you attended but
20 prior to leaving on your holiday, you didn't know there
21 was going to be one taking place?
22 A. I don't think so, no.
23 Q. Do you know when you heard
24 about it?
25 A. When I returned.
Q. Did you have any idea who



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DD10 2 instigated the conference?
3 A. I don't know who instigated it.
4 Q. Do you know if the nurses
5 had asked for that kind of conference to take place?
6 A. I don't know.
7 Q. Now, there is a copy of
8 Exhibit 309 somewhere around you. That is Nurse
9 Costello's notes. Have you seen these notes before?
10 A. No, I have not.
11 Q. On page 4, Nurse Costello,
12 about half-way down the page, writes some notes about
13 the evening meeting and she notes that:
14 "There was a meeting at Liz' home
15 to support staff and let them express
16 their fears and worries."
17 A. Right.
18 Q. Now, she also notes that she
19 recalls you saying a number of things:
20 "In retrospect, remember Susan
21 saying..."
22 Do you see that?
23 A. Yes.
24 Q. Could you read that over and
25 tell me if it accords with your recollection as to
what you said?



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MR. SOPINKA: I thought we were
precluded from going over that because it is Phase II.

4

THE COMMISSIONER: Some of it is
relevant and some of it is not. That is the diffi-
culty of asking that general question. Obviously,
if you are asking about what she is alleged to have
said with respect to Kevin Pacsai, that is relevant
to this issue. Is that the part that you are con-
cerned about?

10

MR. LABOW: Yes.

11

THE COMMISSIONER: Then, perhaps you
can tell us if that accurately or reasonably represents
what you said.

13

MR. LABOW: Q. Forgetting about the
first phrase, it is written there:

15

"I know I didn't do anything wrong.

16

I know I measured digoxin carefully.

17

I remember small amount in syringe,

18

plunger not far out, one squirt,

19

checking with Mary Jean, giving

20

Kevin Pacsai..."

21

And I can't read that word.

22

23

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A. Right - right card, right
baby.

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Q. "We will get through this.
Must stick together and support each
other."

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8

A. Right.

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Q. Is that --

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THE COMMISSIONER: Well, that last
part I don't want.

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MR. SOPINKA: And in any event I mean
she went over this and she said what she said. I
know it is a long time ago, but if my friend has some
question arising out of that --

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22

MR. LABOW: I have a question arising
out of this statement, Mr. Sopinka.

MR. SOPINKA: To merely say what did
she say - I mean we can do that until the cows come
home.

23

24

25

MR. LABOW: I had no intention of
reading this out, Mr. Commissioner. I only wanted
to know if what Nurse Costello wrote was accurate
about Kevin Pacsai, and I do have a question about
the last part.

THE COMMISSIONER: The last part is
the part that is clearly Phase II.



1
2 MR. LABOW: Well, that all depends
3 on what it is referring to, and this is the witness
4 who allegedly said it. That is why I would like to
5 know if it is accurate.

6 THE COMMISSIONER: Well, you certainly
7 want to get it from the witness who said it, you want
8 to find out whether it is accurate or not, but what
9 has it got to do with --

10 MR. LABOW: Well, my question is going
11 to be what did you mean by "We will get through this.
12 Must stick together and support one another.", when
13 she had just reviewed the situation and had been very
14 certain about what she had given.

15 THE COMMISSIONER: Yes.

16 MR. LABOW: And what she had done with
17 regard to Kevin Pacsai.

18 My question is what did they have to
19 get through together about? And it relates specifically
20 to what was said here, and I don't want to put it to
21 her if she doesn't agree that is what she said.

22 THE COMMISSIONER: Well, I would think
23 that that last part has nothing to do with the cause
24 of death. It may have something to do with Phase II.
25 I would think that, but if anybody thinks - do you
think it has something to do with the cause of death,



1

2

do you?

3

MR. LABOW: Yes, I do.

4

THE COMMISSIONER: Well, all right.

5

First of all, Miss Nelles, is that
roughly what you say?

6

7

THE WITNESS: I did not write this
note, and my understanding is that Mrs. Costello wrote
in retrospect remember Susan saying it and she has
listed a number of things that she heard me say.

9

10

MR. LABOW: Right.

11

THE COMMISSIONER: Well, is it
accurate, though?

12

13

THE WITNESS: Basically, yes.

14

THE COMMISSIONER: All right.

15

16

17

MR. LABOW: Q. Well, my question is
with regard to the last part. Were you referring
specifically and only to the Kevin Pacsai inquest
that was upcoming?

18

19

A. You are linking "We will get
through this, must stick together" to the previous
statement?

20

21

Q. Well, I am asking should they
be linked?

22

A. No, they should not.

23

Q. Well then what were you referring

24

25



4
1
2 to?

3 A. I think you have to understand
4 that that was a meeting of all the nurses on the
5 floor, and that there were a number of things
6 discussed at that meeting, and we certainly knew
7 there was an investigation going on, and it was my
8 feeling that we said -- everyone conveyed the
9 thought that we would stick together.

10 Q. So did it have to do with the
11 fact that you were all under this severe stress?

12 A. And that there were things
13 going on on our floor, the inquest into Kevin Pacsai,
14 and another form of investigation, and that we needed
15 each other's support.

16 Q. Okay. Well then my question
17 really has to do with the Kevin Pacsai situation.
18 You apparently were quite certain as to what went
19 on with your giving the digoxin to Kevin Pacsai.

20 A. Yes.

21 Q. And at that meeting you
22 checked with Mary Jean Halpenny about it and she
23 confirmed what you believed?

24 A. Right.

25 Q. My question is what did you
have to support each other about and --



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A. As I have explained they are
not linked.

3

4

Q. So this had nothing to do
with the Pacsai matter?

5

6

A. The ward as a whole was going
to be faced with an inquest.

7

8

Q. I understand that.

9

10

A. But we were faced with a
number of things, and that is what was discussed at
that meeting.

11

12

Q. Well, you mentioned the other
investigation.

13

A. Right.

14

Q. Because you knew of all the
things that were going on on the ward?

15

A. Yes.

16

Q. And what did you have to stick
together about?

17

18

A. We had to stick together as a
group, as a group of nurses working together.

19

20

Q. I only have one other
question, Miss Nelles. It has to do with Exhibit
389, and that is the psychiatric report dated
September 8, 1981 that your counsel put into evidence.
Could you look at page 2?

21

22

23

24

25



1
2 The second paragraph deals with
3 patients with Down's Syndrome.

4 A. Right.

5 Q. And a statement that you made.
6 Do you recall if you were specifically asked that
7 kind of question or did you volunteer that answer?

8 A. I don't remember.

9 Q. You have no recollection?

10 A. No.

11 MR. LABOW: I have no further
12 questions.

13 THE COMMISSSIONER: Yes. All right.
14 Thank you. We will take 20 minutes.

15 ---Short recess.

16 ---On resumint.

17 THE COMMISSIONER: Before you start,
18 Mr. Tobias, I want to make arrangements. We are
19 coming, as you know, to the end of Phase I - at least
20 to the end of the Commission's evidence, and I would
21 like on Thursday of this week at the end of the day
22 to discuss with people (with counsel that is) any
23 additional evidence they want or intend to call.

24 I ask you to bear in mind Section 5
25 of the Act gives you the right to call and examine



1
2 witnesses personally or by their counsel on evidence
3 relevant to their interest. So that if you have any
4 proposed witnesses to call - the only one that we have
5 in addition to Mrs. Trayner that at any rate counsel
6 have advised me of is Dr. Kauffman to be returned
7 because he has written a letter which is apparently
8 not satisfactory to some counsel and want to cross-
9 examine him, but that would be a matter of a day I
would think at the most and we can fit it anywhere.

10 I think the plot will be that after
11 the evidence of Mrs. Trayner is finished, whatever
12 evidence you are going to call and it does appear
13 to be in the interests of your clients, will be called.
14 I hope that will not take us very long. Then there
15 will be a short recess for the purpose of preparing
16 for argument. Perhaps during that period we will
17 have Dr. Kauffman, and then we will have argument,
and then we will proceed immediately to Phase II.

18 Now I will answer any questions that
19 anybody has now, but is there anything radically
20 wrong with Thursday of this week to consider it?

21 One of the reasons why we are not
22 doing it next week is that the Passover seems to
23 make that difficult for counsel to be here after the
24 end of the day.
25



1
2 All right then, will you give some
3 thought between now and Thursday as to what evidence
4 you want, and be prepared to justify the calling
5 of such witnesses.

6 All right, Mr. Tobias.

7 MR. TOBIAS: Thank you, Mr. Commissioner.

8 MR. ROWLAND: Mr. Commissioner, before
9 Mr. Tobias begins, you asked at the end of the
10 morning session about constant nursing care, about --

11 THE COMMISSIONER: Yes, shared nursing.

12 MR. ROWLAND: And shared nursing.
13 What we have been able to turn up is a page from the
14 Nursing Policy Manual which deals with three
15 categories of levels of nursing observation.

16 THE COMMISSIONER: Is that an exhibit?

17 MR. ROWLAND: It is not an exhibit.
18 I only have one sheet. I will file it now and get
19 copies made.

20 THE COMMISSIONER: All right.

21 MR. ROWLAND: It deals with three
22 categories. I am not sure it assists you very much
23 but it is all the documentation we could find relevant
24 to this issue during the time period in question.

25 THE COMMISSIONER: All right. Thank
you.



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What number are we at?

THE REGISTRAR: 395.

THE COMMISSIONER: 395. Categories of Nursing - it is called Classification Levels of Nursing Observation.

All right then everybody will have a copy of that in due course.

---EXHIBIT NO. 395: Document entitled Classification Levels of Nursing Observation.

MR. SCOTT: Miss Thompson found that.

THE COMMISSIONER: I am sure of that.

MR. SCOTT: And Mr. Rowland and I spent lunch discussing who would present it!

MR. TOBIAS: I think I am in big trouble, Mr. Commissioner. I have Mr. Sopinka on my right and I have got Scott right behind me.

CROSS-EXAMINATION BY MR. TOBIAS:

Q. Miss Nelles, my name is Warren Tobias --

MR. SOPINKA: And still will be undeterred.

MR. TOBIAS: Q. I represent the family of Jordan Hines. I am sure that you are probably of the view that the burning question was what you were going to say this afternoon, you being the star



1
2 witness today, but I am advised by all of my friends
3 that the hottest question right now is how long I
4 intended to be in cross-examination.

5 I have tried to calm their fears and
6 I will do the best that I can to get through this
7 quickly. I understand that on the long night nursing
8 shift of March 7th and the 8th you were on duty on
9 the 4A side, and in fact you were the team leader on
10 that shift and that Mary Jean Halpenny was a team
11 leader on 4B.

12 Now you gave us evidence that in
13 September of 1980 as well you were team leading and
14 that was when Phyllis Trayner was absent. Was that
15 the first time that you took over as team leader in
16 September of 1980?

17 A. Yes, it was.

18 Q. All right, fine.

19 A. Except that --

20 Q. I understand that the evidence
21 indicates that on March 6th, 1981 - that is the
22 night Colleen Warner died - again you were team leader.
23 On March 8th, 1981, the night that Jordan Hines you
24 would have been team leading on 4A, and again on
25 March 9th, 1981.

My question is between September of



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1980, the end of that month and the end of March,
1981, were there any other occasions where you
performed the role of team leader?

5

A. I don't remember.

6

Q. All right. It is possible you
did?

7

A. Certainly.

8

9

10

Q. I take it, though, because
you have no recollection that wouldn't have been a
frequent event during those some four or five months?

11

A. I don't believe so, no.

12

13

14

15

Q. All right. Fine. Now that
means that in March of 1981 the role of team leader
and the responsibilities that went along with it,
is it fair to say that still would have been a fairly
new thing for you, a fairly new role?

16

17

A. Well, I had done it for the
whole month of September.

18

19

Q. All right. Were you completely
comfortable with it at that point?

20

A. I don't remember feeling
uncomfortable with it.

21

22

23

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25

Q. Okay. That's fair. We know
that - we have heard some glowing descriptions of
your attitude towards nursing, your concern for your



12 1 degree of professionalism; we have heard you described
2 as conscientious.

3 I take it that when you asserted the
4 role of team leader, that was particularly so? You
5 were particularly serious about the duties and
6 responsibilities that went along with that. Am I
7 correct?

8 A. I wouldn't think there would
9 be any difference, but --

10 Q. All right. It is fair to say,
11 though, that by nature in terms of your approach to
12 your professional duties you are a careful person?

13 A. I would hope so.

14 Q. And that certainly wouldn't be
15 any the less so when you were team leader?

16 A. Right.

17 Q. All right. Now we have heard
18 evidence particularly from Nurse Bell that it was
19 common after report for her to consult with the team
20 leader on the 4A side and to exchange information
21 regarding the patients on both wards who might be
22 expected to get into trouble on that shift or who
23 bore some special kinds of watching.

24 Was that the practice when you were
25 team leading as well? Was that your normal practice?



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A. I don't know whether it was specifically at the beginning of the shift. Usually some time during the course of the - before midnight I would say that was a common practice, yes.

Q. Right. So you as well would attempt some time before midnight to speak to the team leader on the 4B side and to in effect exchange information about particular patients that you were concerned about?

A. Right.

Q. Right. And I take it one of your reasons for doing that is because you as team leader on the 4A side would be expected to have some degree of familiarity with the status of patients on the 4B side in case you had to step in on the 4B side and assist. Is that accurate?

A. Not so much that, that if an arrest situation arose that we would be - would be in attendance.

Q. All right.

A. But --

Q. Now on the shift of March 7th and 8th you would have been opposite Mary Jean Halpenny who was team leading on the 4B side. Do you know how frequent that happened that she would lead on the



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2

4B side?

3

A. I don't recall that Mary
Jean had been team leader very often at that point.

4

5

Q. All right. Would she have any
greater or lesser degree of familiarity with the
duties that went with team leading than you did?

6

7

A. I don't recall.

8

9

Q. Okay. Fine. Do I take it that
it didn't happen very often, therefore, that Mary
Jean Halpenny would be the team leader on the 4B side
that you were working opposite of?

10

11

A. At that time, no.

12

13

Q. Okay. Fine. Now do you
remember that particular night whether or not you and
Halpenny followed the usual practice of getting
together some time during the first four hours of
the shift to discuss the patients on each ward?

14

15

16

17

A. I don't remember.

18

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Nelles,
cr. ex. (Tobias)

FF/BM/Ln

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Q. All right. It is possible you did, you just have no specific recollection of it; do I have it correctly?

A. No.

Q. Now, do you think, given the fact that we know that obviously you took your duties very seriously, is it fair to surmise, and please tell me if it is not fair to surmise, that although you have no specific recollection it is likely that you would have had some discussion either taking report or sometime during the first three or four hours of the shift regarding not only the status of the patients on your side, but the status of the patients on the other side as well; is that likely?

A. No it is not.

Q. Okay. Why would that not be likely, why would you think that probably didn't happen?

A. Because I was basically 4A -- I was a 4A nurse and the focus of my attention were the patients and the concerns of 4A.

Q. All right. Do you recall whether on the night of March 7th or 8th of 1981, whether you specifically went to the tour end



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2 reports and had a look at those?

2
3 A. I don't remember.

4 Q. Would it be likely that you
5 did with respect to patients on the 4A side?

6 A. Usually when the supervisor
7 came to the floor at night, she would have the tour
8 end reports and she would, on her first visit to
9 the floor, she would discuss with me the patients
10 that were on the tour end report and if there were
11 no patients then she would usually say I'll be back
later.

12 Q. All right.

13 A. If there was only one then
14 we would go and look at that one patient.

15 Q. Do you have any specific
16 recollection at all of whether you either looked
17 at the tour end reports regarding the patients on
18 the 4B side or heard anything said about those
19 tour end reports by your counterpart Mary Jean
Halpenny?

20 A. It would not be usual
21 practice for me to look at the 4B tour end report
22 sheets. The only way that I may have known is if
23 Mary Jean Halpenny were to tell me of any patients
24
25



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1
2 on the 4B side that were at risk or of special
3 concern that evening.

4 Q. All right. Now, I am going
5 to ask you for a moment to assume that there were
6 patients on the 4B side that were at risk and who
7 bore special watching. In that event, would it
8 be likely that Mary Jean Halpenny would probably
9 mention that to you?

10 A. Usually, yes.

11 Q. All right. Now, do you
12 have any recollection of her having mentioned
13 to you on that occasion the name Jordan Hines?

14 A. I don't remember.

15 Q. Okay. Now, is it that you
16 don't remember whether she did or didn't, or you
17 have no recollection of in fact hearing that name?

18 A. I don't remember if she did
19 or if she didn't.

20 Q. Okay, she may have?

21 A. She may have.

22 Q. All right. Can I put it to
23 you that had she mentioned that name in light of
24 the fact that he then went on to suddenly arrest
25 and die, that is something that you would likely
recall.



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4 A. I don't know, I don't
remember.

5 Q. Okay, fine. Now, I have had
6 the opportunity of reviewing Exhibit 360 which are
7 the tour end reports dealing with the 36 babies
8 with which we are involved with in this commission
and specifically page 128 to 30 of that Exhibit
deals with baby Hines.

9 On the back of page 130 is the
10 tour end reports for the long night nursing shift
11 of the 7th to the 8th and that indicates, I'm not
12 going to read it to you, but it indicates basically
13 that the child was not at risk, that he was stable,
14 there had been no apnea or cardiac problems noted
15 on that shift. We have heard evidence from the
16 author of that note indicating that in fact she
had seen the child and the child was stable.

17 In light of that information, in
18 light of the fact that it appears from the record
19 that Hines was stable, and in light of the fact
20 that you can't recall his name having been mentioned
21 to you by Mary Jean Halpenny, do you agree with me
22 that it is fair to surmise from that that he was
23 not a patient at the beginning of that shift in any
24 event who was regarded as being at risk?
25



1
2 A. I cannot say one way or
3 the other because, as I have explained to you, I
4 am a team leader on 4A and that's concerned with
5 the patients primarily on 4A. So, I would say that
6 98 percent of the time I probably wouldn't know
7 any of the patients on 4B.

8 Q. Even if they were at risk?

9 A. I'd say that the small
10 percentage at risk I would know.

11 Q. All right. Well, let's
12 leave that there then.

13 Now, you gave evidence the other
14 day to Mr. Lamek that only rarely would you be
15 likely to go over to the 4B side when you had
16 patient assignments on the 4A side, and I believe
17 you went further than that, I think that you said
18 even when you were team leading on the 4A side
19 it would only be on rare occasions that you would
20 drop over to 4B to check on their patients. Now,
21 do you know whether that accorded with the practices
22 of the other nurses on your team?

23 A. I don't know.

24 Q. Okay, fine. Are you in a
25 position to say whether there would be anything
particularly unusual or suspicious about one of the



1
2 other nurses on your team going over to the 4B
3 side.

4 A. I don't think I could say,
5 no.

6 Q. Okay, fine. If that was
7 something you had observed yourself personally,
8 if you had seen Sui Scott at a time she had
9 patient assignments on 4A over on the 4B side,
10 would that have been suspicious?

11 A. No.

12 Q. Okay, fine. Now, do you
13 recall at all on the long night shift of March 7th
14 to 8th whether or not you would have been at any
15 time during that shift in room 431, which is the
16 infant room on the 4B side?

17 A. I don't remember, no.

18 Q. Okay. You have no recollection
19 of being there. Again are you saying that you may
20 have been you just don't remember; it's possible?

21 A. I don't remember having been,
22 no.

23 Q. Okay, fine. Do you have any
24 recollection of any of the other 4A nurses at any
25 time that evening being in room 431; did you see



1
2 any of them going into or coming out of that room?

3 A. I don't recall.

4 Q. Now, on that particular
5 evening, looking at the 4B assignment books, it
6 appears that Nurse Reaper was the nurse in charge
7 of Hines. You can look at the assignment book but
8 I just ask you to take this on faith as it were.
9 She had three other children in fact in room 433,
10 and Meredith Frise had four other patients in room
11 431. Now, if you were told, and I put it no higher
12 than that, if you were told that any of the nurse
13 from 4A who had patient assignments on 4A that
14 evening, and let me put a number on it to make it
15 somewhat hypothetical, let's say they had three
16 particular patients to care for on the 4A side,
17 would you find anything unusual or anything at all
18 suspicious about that nurse being on the 4B side
19 in a room where you knew there were at least two
20 other nurses from 4B who were assigned to the
21 nurses in that room?

22 A. No, I would not.

23 Q. So, that wouldn't arouse
24 any suspicion and that wouldn't particularly bother
25 you as the 4A team leader to find one of your
nurses over there, would it?

A. No.



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Q. Now, we have heard evidence before this Commission from Nurse Scott and her best recollection is that on the evening of March 7th, 1981, that would have been the Saturday night, that she went into Room 431 and saw Nurse Trayner at the Hines bedside some time between 10 and 11:00 p.m. and I asked her what she was doing there and how long she was there for and her evidence was that Nurse Trayner was there for about five minutes, wasn't really doing anything, was just looking at the Hines baby. Does that help refresh your memory at all, does that give you any more clearer recollection of whether you yourself saw Phyllis Trayner in Room 431?

A. I don't remember, no.

Q. All right. Certainly though if Nurse Trayner having had three patients of her own in 418 to look after, if Mrs. Scott is right and she was there for five minutes, especially between 10 and 11, which would have been break time, that wouldn't have particularly bothered you?

A. No, it would not.

Q. And not necessarily have detracted from the patient care that she was giving on the 4A side and certainly not be anything suspicious or untoward about that. Do you agree



1

2

with all of that?

3

A. Yes, I do.

4

Q. Okay, fine. Now, I'd like

5

to know whether you were aware either at the time that

6

Baby Hines arrested or at any time up until March

7

25th, 1981 that the baby was supposed to have a

8

perfectly normal heart anatomically? Did you know
that?

9

A. I don't believe I did, no.

10

Q. Is that something that you

11

are aware of today?

12

A. I have read the baby's chart,
yes.

13

14

Q. All right. I take it from that

answer that that is something you are aware of because

15

you have read the baby's chart?

16

A. Right.

17

Q. Okay, fine. Now, were you

18

aware at the time of his arrest or at any time prior

19

to March 25th, 1981 that the Hines baby was not on

20

a regimen of digoxin?

21

A. I did not know that, no.

22

Q. All right. That is something

I take it that you are aware of today, having read

23

the chart?

24

25



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A. Yes.

3

Q. Okay. Did you learn some time

4

after March 25th, 1981 that certain amounts of

5

digoxin or digoxin like substances had been found

6

in the preserved tissue taken at autopsy and in

7

exhumed tissues. Is that something that you are

8

aware of today?

A. Yes, it is.

9

Q. All right. Now, first of all,

10

do you recall at all when that first came to your

11

attention?

12

A. I believe it was some time

13

during the preliminary hearing.

14

Q. Okay. And at the time do you

15

remember your reaction, did it surprise you?

16

A. I did not know the baby.

17

Q. Well, I take it from that

18

answer that it didn't particularly surprise you because

19

you didn't know anything about the baby?

A. That's right.

20

Q. All right. Were you aware

21

either on March 8th, 1981 or at any time prior to

22

March 25th, 1981 what the cause of death was in

23

Baby Hines?

A. No, I did not.

24

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Q. All right. Did you make any enquiries prior to March 25th, 1981 about the cause of death?

3

4

A. No.

5

6

Q. No discussions with doctors or nurses?

7

A. I was not on 4B.

8

9

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Q. All right. Were you aware between March 8th, 1981 and March 25th, 1981 of the general perception on the ward particularly amongst 4B nurses that the Hines death was one that was greeted with some surprise and a fairly high level of concern?

13

A. I don't remember that.

14

15

16

17

Q. All right. Were you aware that his was one of the deaths that was specifically discussed at a ward meeting on March 11th, 1981 of 4A/B nursing personnel?

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A. I don't remember that, no.

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Q. All right, fine. Now, you gave evidence the other day regarding what if anything had transpired over the entire nine month period that you in any way found surprising or shocking or at least raised your own level of concern and I believe that it is a fair summary of your



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evidence that you indicated that it was the Pacsai death that really troubled you the most; do I have that correctly?

A. Yes.

Q. And as I understood your evidence that was because of the sudden and obvious change in that baby while you were away attending at the Manojlovich arrest and because he really was not all that sick?

A. That he showed a dramatic - that he showed changes between the time that I left for the Manojlovich arrest and the time that I returned.

Q. Okay. Did you at the time you left to attend on the Manojlovich arrest regard Pacsai as a very sick infant?

A. No, I did not.

Q. You certainly didn't regard him as being at any risk, did you?

A. That's a difficult question to answer.

MR. SOPINKA: Well, we have been over all this. And what's my friend's interest in this particular matter. I mean, he's acting for the parents of the infant Hines. I mean, surely if he had some new matter I wouldn't have objected but to go over



1
2 the same thing again when he has no interest is
3 objectionable.

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4 MR. TOBIAS: Mr. Commissioner, the
5 objection is a fair objection. What I ask for is
6 about another three minutes and perhaps I can draw
7 the connection for my friend to his satisfaction.

8 THE COMMISSIONER: Well, he wants it
9 now, he doesn't want to wait three or four minutes.
10 I have a certain sympathy for him.

11 MR. TOBIAS: Well, I recognize that,
12 Mr. Commissioner, but I'm afraid if I give it to
13 you now I will be giving you not only the question
14 but the answer and I'm not sure that that is what you
15 want me to do.

16 THE COMMISSIONER: I am not too sure of
17 that. Well, what is the connection to the Pacsai
18 death and your client, that's all, other than the
19 general connection.

20 MR. TOBIAS: Well, only that both
21 children had anatomically normal hearts, both of
22 them were doing all right in the hospital, they were
23 stable, they were improving, they weren't considered
24 to be at great risk and the concern was --

25 THE COMMISSIONER: The problem is,
Miss Nelles can't really help us on the Hines death.



Nelles, cr.ex.
(Tobias)

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She can help us on the Pacsai death and she's done that but she tells us that she does not recollect the baby, the baby was on a different ward and she knows nothing about him and really didn't find out much about him, as I understand her evidence.

MR. TOBIAS: Well, let me skip ahead a couple of steps and put this question directly to the witness.

Q In retrospect, Miss Nelles, given the information that you now have as a result of certain evidence that was given at the preliminary enquiry, given the knowledge that you have gained by reading the Hines chart, thinking back to what it was particularly that bothered you about the Pacsai arrest, in light of all of that and in retrospect, is the Hines arrest one that causes you any level of puzzlement?

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MR. SCOTT: Now, Mr. Commissioner, surely this serves no purpose whatsoever. It is my friend's misfortune that he has nothing significant to ask this witness, she has made it plain that she doesn't know anything about his client's baby and really it must come to an end one way or another, and sooner or later. Surely this question posed to an expert --

THE COMMISSIONER: Posed to an expert, and I am pretty sure I know what the answer will be.

MR. TOBIAS: Yes, I am sure that I do as well now, Mr. Commissioner.

THE COMMISSIONER: And it would have been without any intervention, that would have been the answer in any event. But it does happen sometimes that the witness has not anything to say that will be of interest to your case, whatever your case may be. I think in those circumstances we just have to accept that and subside.

MR. TOBIAS: Of course that is a much fairer observation, Mr. Commissioner, I'm sure you will agree with me in examination in chief than it is in cross-examination. The whole point as I understand it of cross-examination is to test



1
2 the witness' memory and to try and assist the witness.

3 THE COMMISSIONER: But you are not
4 assisting the witness by asking questions relating to
5 Pacsai and trying to transfer them on to Hines, it
6 just won't do, at least I don't think it will do.
7 I suppose I will have to allow you in argument to
8 do something like that.

9 She has given you all the evidence
10 she can possibly give about Pacsai and if you want
11 to say that this is what happened with Pacsai, and
12 the same condition existed in Hines, surely you
can do that, can you not, in argument?

13 MR. TOBIAS: Well, I am satisfied
14 to proceed that way and to raise that in argument.

15 THE COMMISSIONER: Yes. All right.

16 MR. TOBIAS: Q. I would like to
17 ask you some questions, Miss Nelles, regarding the
18 Hines resuscitation effort in particular. I take it
19 that during that resuscitation effort you were there
throughout?

20 MR. SOPINKA: I think the first
21 question should be, does she remember, otherwise
22 we will have a whole series of hypothetical and it
23 turns out that she doesn't remember any of it.

24 THE COMMISSIONER: Well, I have now
25



1
2 forgotten whether you do remember. Do you remember
3 anything about the resuscitation?

4 THE WITNESS: There was one incident
5 that came up at the Hines arrest.

6 THE COMMISSIONER: All right.
7 Go ahead.

8 MR. SOPINKA: He finally gets a
9 point that he can ask her about and he won't ask
10 the question. I understand she doesn't remember
11 anything else about that except that one point.

12 MR. TOBIAS: Well, Mr. Commissioner,
13 I am certainly entitled to ask this witness.

14 THE COMMISSIONER: Yes, but --

15 MR. TOBIAS: Excuse me, excuse me.
16 If there are other elements that go to that
17 resuscitation effort that no one else has asked her
18 about.

19 THE COMMISSIONER: Yes.

20 MR. TOBIAS: If there is a
21 question that is relevant that has not been put I
22 am entitled to put that question, not necessarily
23 in a blanket fashion. The question that I don't
24 think has been asked of this witness, and that I
25 propose to ask right now, is whether in fact she
was there throughout the resuscitation effort.



Nelles, r.ex.
(Tobias)

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THE COMMISSIONER: Yes.

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MR. TOBIAS: That is not a
difficult question.

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THE COMMISSIONER: No. All right.

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MR. TOBIAS: Q. Do you recall
whether you were there throughout, Miss Nelles?

8

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A. I would assume that I was but
I don't have any real recollection of it.

10

11

Q. Do you recall what job you
were doing during that resuscitation effort?

12

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A. I don't remember.
Q. Fine. Do you remember, do
you have any recollection regarding the length of
the resuscitation effort?

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A. I don't remember.
MR. TOBIAS: Okay. Fine.
Mr. Registrar, could you put Exhibit 103 before the
witness, please. That is the medical record for
Jordan Hines, and in particular 103B.

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Q. I would like to refer you,
Miss Nelles, to the progress note of Nurse Reaper
which appears on page 35 and that indicates that this
child's vital signs were checked at 4:00 a.m. and
that there was no noted distress at that time; he
arrested at 4:10.



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3 A. I am sorry, what page are you
4 on?

5 Q. Page 35 of the progress notes.
6 If you look at Exhibit 103B there appears to be, if
7 I understand the handwritten list of the various
8 medications that were given and the various
9 procedures that were undertaken throughout the course
10 of the resuscitation effort. Times are noted for
11 various drugs being given and there is procedures
12 undertaken. It appears from that note that the
13 efforts to resuscitate stopped at 6:43. So the
14 evidence clearly would indicate that what we are
15 involved with here was a resuscitation effort some-
16 thing in excess of two and a half hours. I take it
17 that as part of your regular duties and functions
18 on the 4A nursing team you would have been present
19 for a great many resuscitation efforts?

20 THE COMMISSIONER: Did you say two
21 and a half hours?

22 THE WITNESS: I don't see 6:43.

23 MR. TOBIAS: It is the fourth
24 page on Exhibit 103B, Mr. Commissioner.

25 Q. Do you have that now, Miss
Nelles?

A. You are looking at the fourth



1
2 page of 103B?

3 Q. Perhaps I can help you by
4 showing you mine. It would appear that you are
5 missing a page, and I promise I didn't write this
6 up in my own handwriting. Let me show you the
7 page that you appear to be missing where it says:
8 "6:43 stopped cardiac massage".

9 A. Right.

10 Q. That is the piece of evidence
11 that I was relying on in commenting on that it
12 appeared to be two and a half plus resuscitation
13 effort. Now clearly you were no stranger to
14 resuscitation efforts, and I take it you have been
15 in on quite a few of them?

16 A. Yes.

17 Q. Can you recall to your own
18 recollection an effort that went on quite as long
19 as that?

20 A. That is --

21 Q. I'm sorry, I didn't hear
22 your answer.

23 A. That is a long arrest, yes.

24 Q. How long is the usual arrest?

25 A. I would say approximately an
hour.



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3 Q. So this was considerably
4 longer than the normal arrest. Is there any
5 information that you have as to why it would have
6 gone on that long; do you have any recollection?

7 A. I don't know.

8 Q. Is it fair for me to assume,
9 or am I way off base in assuming, that maybe the
10 reason why it went on that long is because the
11 child not having been considered to be at risk was
12 a fairly good candidate for resuscitation, they
13 thought they might be able to bring him back if
14 they kept working on him, is that fair?

15 A. That is one reason.

16 Q. Okay, fine. Now we have heard
17 evidence, particularly from Meredith Frise, that
18 that in fact was the case in Hines. You have already
19 told me you have no particular recollection of the
20 child, or whether he was stable or not. Certainly
21 you would have no reason to disagree or dispute that
22 evidence would you?

23 A. I did not know the child.

24 Q. You also told Mr. Lamek the
25 other day that you found the call for a pacemaker
in connection with that resuscitation effort unusual?

A. It was rare, I certainly don't



1
2
3 remember a pacemaker being asked for before.

4 Q. I take it from that answer
5 that you had never personally been in on a resusci-
6 tation effort during that nine month period before
7 where a pacemaker was called for?

8 A. Not to my recollection, no.

9 Q. Were you also involved in
10 resuscitation efforts when you were up on 5A?

11 A. I don't recall that I was, no.

12 Q. Were you in on resuscitation
13 efforts when you worked at Vancouver General?

14 A. I don't recall.

15 Q. Do you recall if at any time
16 throughout your nursing career you had seen in a
17 resuscitation effort a pacemaker called for?

18 A. This is my first recollection
19 of one.

20 Q. And I take it that it was that
21 element of uniqueness in effect, your first situation
22 where one had been called for, that made you somewhat
23 unfamiliar with precisely what it was that the
24 doctor had wanted?

25 A. That's right.

Q. And you told us that the
discussion then ensued and you could recall yourself



1
2 and Phyllis Trayner taking part in the discussion
3 but you didn't think it was limited just to the
4 two of you?

5 A. Right.

6 Q. Regarding precisely what it
7 was that the doctor wanted?

8 A. Right.

9 Q. How long did that discussion
10 go on for, do you recall?

11 A. Not for very long.

12 Q. If I said to you, was it 20
13 minutes.

14 A. It was not.

15 Q. You thought it was shorter
16 than that?

17 A. It might be.

18 Q. During this discussion while
19 it was going on, how many doctors were there in the
20 room?

21 A. I don't recall.

22 Q. Was it more than one?

23 A. Yes.

24 Q. Do you recall Dr. Costigan
25 being there?

A. I don't recall.



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Q. Do you recall if Dr. Kobayshi
was there?

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A. I really don't remember.

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Q. Now, you did say that it was
the cardiovascular surgeon who had called for the
pacemaker.

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A. That was my recollection, yes.

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Q. Was Dr. Costigan a cardio-
vascular surgeon?

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A. No, he was not.

12

Q. Was Dr. Kobayshi a cardio-
vascular surgeon?

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A. No, he was not.

14

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Q. What was this doctor, this
cardiovascular surgeon doing while this discussion
was ongoing?

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A. I don't remember.

17

Q. I'm sorry?

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A. I don't remember.

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Q. Well, do you remember what
the normal procedure is, do they have to wire the
child, or insert wires in the chest, how does one
use a pacemaker?

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A. As I say I had never been in
an arrest where it had been used. My recollection

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2 is that we were concerned with where to get one and
3 what kind of pacemaker to get.

4 Q. Well ultimately during the
5 Hines arrest was it used?

6 A. I believe so, yes.

7 Q. Were you there when it was
8 used?

9 A. I believe so.

10 Q. Did you witness it being used?

11 A. I believe so, but I don't
12 have any real recollection of it.

13 Q. Well let me ask you this.
14 Can you go this far with me. Do they plug a
15 part of the pacemaker into the child; do they stick
16 it into his body; what is the procedure?

17 A. There are wires attached to
18 the pacemaker that are inserted into the heart I
19 believe.

20 Q. And is there any preparation
21 that has to be done for that, does the chest have
22 to be opened?

23 A. I don't know, not opened, the
24 chest is not opened.

25 Q. Do you recall the doctor doing
anything by way of a preparatory nature to be ready



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to use the pacemaker once you brought it?

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A. I don't recall.

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Q. Let me ask you this. Had you brought the right kind of pacemaker the first time instantaneously, would the doctor have been ready right then and there to use the pacemaker?

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A. I don't remember.

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Q. Now you indicated that one of the reasons that you didn't ask the doctor as to what kind of pacemaker he wanted was because he was busy.

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A. Right.

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Q. Well, how long would it have taken to ask him: Doctor, what kind of pacemaker do you want?

16

A. I don't know.

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Q. Well, you did tell us the other day, I believe in your cross-examination by Mr. Strathy, that there were two kinds of pacemakers, one was a sequential and you couldn't remember the name of the other. May I suggest to you that the name of the other is a demand pacemaker, does that refresh your memory?

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A. I know that there are two kinds, yes.



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3 Q. I understand that on one of
4 those pacemakers it puts out an input, it puts out
5 a heart beat whether or not the child's heart is
6 beating on its own. The other kind of pacemaker
7 does not give an electrical impulse when the child's
8 heart is beating, but both of them are designed to
9 get an impulse going, do I have that correctly, is
10 that your understanding as well?

11 A. I don't feel qualified to
12 answer that.

13 Q. Can you answer this for me.
14 Knowing there is only two kinds of pacemakers, and
15 also at the time that this happened on March the 8th,
16 did you know then that there were only two kinds of
17 pacemakers?

18 A. I believe I did.

19 Q. So that all you would have had
20 to do at that time was ask a simple question, do you
21 want a demand or a sequential. Now, there, that
22 takes under 5 seconds. Is there any reason why
23 that question couldn't have been asked?

24 A. I don't remember the
25 circumstances but I think that you had to take into
account that there is an arrest situation going on
and that the actual procedure of arrest is far more



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important at the time, or at least that was my
view, that the doctors are asking for medications
and that there is procedure going on.

Q. Now, is it your understanding,
or was it your understanding then that the whole
point in resuscitation was to get a heart beat back,
to get it going, to stimulate the heart?

A. To resuscitate the child, yes.



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Q. Correct. And I take it it is only common sense you don't have to be a doctor or a nurse to know this - I take it that the faster you get that impulse going, the better it is. You want to get that impulse going as quickly as possible.

A. Right.

Q. Is that correct?

A. Yes.

Q. All right. Now, since both pacemakers, demand and sequential, appear to stimulate and give an output, is there really any difference between the two in terms of the job that it has to do, getting the heartbeat back?

A. My only understanding, sir, is that I was requested to get a pacemaker and when it was brought it was the wrong one, and that was not my decision. I was only trying to find out what was wanted and to bring the thing, the pacemaker.

Q. All right. In fairness, though, you do agree that at the time, because I think you have said this yourself directly, what was important was getting it as fast as possible, and you told Mr. Lamek that if voices were raised, it was because of the frustration of the time passing without getting it while you were discussing this?



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A. Right.

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Q. Looking back on it, don't

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you agree with me that probably the fastest way to

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have gotten it would have been to ask the doctor

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whether he wanted a sequential or a demand?

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A. I cannot say that because I

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can't remember exactly the circumstances that I was
confronted with.

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Q. All right. Fine.

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Now, we have also heard evidence

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that - and I am referring now to the evidence of

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Kathy Coulson, one of the supervisors, that she

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recalls being at the resuscitation effort and she

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did recall Dr. Costigan being there. I believe your

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evidence was that you couldn't recall one way or

the other?

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A. I don't recall who was there.

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Q. All right. Again, I want to

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be careful here. Is it your evidence you just don't

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recall whether he was or he wasn't, or you have a

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specific recollection that he wasn't there?

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A. I don't recall whether he was

or he wasn't --

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Q. I see.

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A. -- at that particular arrest.

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Q. He might have been and he
might not have been, as far as you know. Correct?

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A. That is right.

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Q. Now it was her evidence that
during the time of this discussion voices were
raised and it became necessary for Dr. Costigan to
say, "Now, ladies, calm down." Do you have any
reason to dispute her evidence?

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A. I don't recall that being
said, no.

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Q. All right. Other than the
fact that you don't specifically recall it being
said, you have no reason to argue with Miss Coulson's
version, do you?

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A. I don't remember that being
said.

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Q. Okay. Fine.
Now, Miss Coulson also indicates
that it was after the resuscitation effort when she
felt it necessary to speak to you and Nurse Trayner
and she specifically gave evidence what she wanted to
talk to you about was there was a time and a place
for everything, and her evidence was she wanted to
make the point that it wasn't really appropriate to
have that kind of discussion during a resuscitation



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effort. And her evidence was that the two of you agreed, and then you all had a laugh about it and it was no big deal.

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Now, you have indicated you don't recall her talking to you that way, but I don't think any of the other counsel have put it in that much detail. Does that help refresh your memory at all?

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A. I don't remember that discussion.

Q. All right. Now again is it that you have a specific recollection she didn't say those words to you or you just don't recall whether she did or she didn't?

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A. I don't remember whether we had that discussion or not.

Q. All right. So you admit it might be possible that you did?

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A. Could be.

Q. Okay. And other than the fact that you have no specific recollection of it, you have no reason to dispute Miss Coulson's evidence in that regard?

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A. I don't remember it being said, so I don't see how I can dispute it.

Q. Okay. Fine.



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Now with respect to the evidence of Meredith Frise, her evidence also was quite specific on this point, both on the preliminary hearing and again here, that the discussion took place while there were other nurses and several doctors around, and I asked her if she could remember how many doctors. She couldn't remember.

Now, do you have any reason to dispute that evidence?

MR. SOPINKA: Well, was it any different? How many different ways do we have to have that this might have taken place? I think my friend got the point that she remembered and he has beat it to death now. Has he got another one?

MR. TOBIAS: No. I think, with respect, Mr. Sopinka, it still has got a couple more breaths in it and I would like to beat it to death and put it to rest for good.

Q. My question was --

MR. SCOTT: You're doing a good job!

MR. TOBIAS: Q. My question was simply this: I am asking you, and I put it no higher than this, if there were other doctors around, is there any reason why you couldn't have asked one of those doctors what kind of pacemaker to bring?

A. I don't recall the events of



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the night particularly, and so I find it hard to know what people were doing at the time that I was requested to get the pacemaker.

Q. Now, I understand that you were team leader during that arrest situation?

A. On 4A, yes.

Q. Perhaps you can help me with this: If on a particular shift there is the regular or usual team leader and the back-up team leader acting in the capacity of team leader that evening and an arrest is called and both of them respond to that arrest, is there a reversal of roles where in the arrest situation the regular team leader assumes the chain of command in terms of nurses, or does the acting team leader have that responsibility?

A. I really don't understand your question in light of the fact that this baby was on 4B and thus Mary Jean Halpenny was the team leader on 4B.

Q. But Mary Jean Halpenny we know from the evidence of Meredith Frise was not at the arrest. Her best evidence is that those people at the arrest were Susan Reaper, herself, Meredith Frise, yourself and Phyllis Trayner.

A. Well, if Mary Jean Halpenny



1
HH7 2 was the team leader on 4B, I would think she would
3 be at the arrest and in charge of her nurses on that.

4 Q. All right. In order to be
5 fair, and this is found, Mr. Commissioner, in Volume
6 107 I believe, her evidence was that Mary Jean
7 Halpenny was there but she didn't stay there through-
8 out: she kept coming and going.

9 All I want to know is this: At the
10 Hines arrest, since both you and Mrs. Trayner were
11 there and you were acting team leader on 4A, whose
12 decision would it have been ultimately as to who was
13 supposed to go and get the pacemaker, yours or Mrs.
14 Trayner's?

15 A. I think you are confusing
16 the fact that I worked on 4A and when an arrest
17 occurs on 4B, it is the 4B team that is in charge,
18 not the 4A team.

19 Q. All right. Let me ask the
20 question this way - please help me if you can. In
21 terms of the arrest team that responded to the Hines
22 situation, was there any ranking or hierarchy in
23 terms of nursing authority?

24 A. Well, Mary Jean Halpenny
25 would be the team leader on 4B, so she would be in
charge of her nurses on 4B and that --



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Q. All right. And if she weren't there, if she were out of the room, who then would be in charge of the nurses at that arrest?

A. I suppose the nurse who was assigned to the child.

Q. All right. And that would have been in this case Susan Reaper?

A. Right.

Q. Fine.

THE COMMISSIONER: After a while, both supervisors, if they are present, take over, do they not?

THE WITNESS: That is right.

MR. TOBIAS: Q. Now, you gave evidence the other day regarding Baby Hoos, and I believe that your evidence was - this is at Volume 123, page 8049, Mr. Commissioner - prior to her arrest you made notes that there had been a change in colour, no or very shallow respirations noted, although the apnea monitor hadn't gone off, and that you were required to stimulate the baby by shaking her, at which time her condition improved.

Now --

MR. SOPINKA: Is there going to be -- what's the connection?



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THE COMMISSIONER: I have that problem with your interest but it may have some association with Baby Hines?

MR. TOBIAS: I believe that it does, sir. But again, and I think we have got to deal with this problem right now.

What I can do is for each and every question, I can lay the basis --

THE COMMISSIONER: Oh, no, no.

MR. TOBIAS: -- set out the exact connection.

THE COMMISSIONER: No, you must understand --

MR. TOBIAS: But I think that would make the entire process quite worthless.

THE COMMISSIONER: Well, there is an onus upon you when you are dealing with some other child.

MR. TOBIAS: I recognize that, but until I have clearly overstepped the line --

THE COMMISSIONER: Well --

MR. TOBIAS: -- and I am just way off base, I would appreciate it if my friends would hold their objections.

THE COMMISSIONER: Well, the



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HH10 2 anticipation was there and I could follow the
3 argument without it even being expressed.

4 What has Baby Hoos got to do with
5 Jordan Hines?

6 MR. TOBIAS: Well, the question I
7 was going to ask, whether it was common or uncommon
8 in cardiology patients, pediatric cardiology patients,
9 to show signs of loss of colour and shallow respira-
10 tions and whether or not that episode in and of and
11 by itself was any particular big deal; whether it
12 wasn't fairly common to have to stimulate a baby and,
13 in the ordinary course, whether babies didn't often
14 respond to that by improving.

15 THE COMMISSIONER: I see.

16 MR. TOBIAS: Now, if I have to go
17 beyond that and draw the analogy as to why that may
18 be relevant to you in deciding the Hines case, then
19 in effect I am really doing nothing more than making
20 argument.

21 THE COMMISSIONER: We are dealing with
22 expert evidence with regard to one baby and you
23 represent the parents of another, and Miss Nelles
24 has carefully indicated very often that she is not
25 qualified to give that kind of expert evidence, but
perhaps I am misstating it.



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Miss Nelles, can you help us out
on the Hoos baby so we can dispose of this?

MR. TOBIAS: Before you do, and if
I might just interject, Mr. Commissioner, I could have
picked any one of a number of other babies where we
have had similar evidence.

THE COMMISSIONER: Yes.

MR. TOBIAS: The question is not
a question specifically going to the Hoos baby. It is
a much more general kind of question.

THE COMMISSIONER: All right. Then
let's have the general question.

MR. TOBIAS: And that is how I intended
to ask it.

THE COMMISSIONER: Yes. All right.

MR. TOBIAS: Q. Now, in your some
15 or 16 months' experience on the cardiology wards,
pediatric cardiology, would you say it was uncommon
or fairly common for babies suffering from cardiac
problems to show indications of loss of colour,
cyanosis, shallow respirations?

A. That is one characteristic
or those signs are apparent in children with heart
disease, yes.

Q. All right. And that is some-



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thing I take it, therefore, that you see fairly often with children suffering from heart problems?

A. Blueness, yes.

Q. Okay. And I also take it that it is fairly common to respond to that by trying to stimulate the baby? Do I have that correctly?

A. It would depend on the child and what kind of symptoms they were exhibiting.

Q. Well, let's talk about bradycardia. If you stimulate a child that is bradycardic by tickling its feet, by shaking it, isn't it true that often the heart rate picks up?

A. That is one way, yes.

Q. All right. And if --

MR. SOPINKA: Mr. Commissioner, we had doctors of great eminence here. Surely that was the best evidence, not to ask these questions of a nurse even though she is able to give a response. I mean, I submit my friend had an opportunity to ask some of the most eminent doctors on this subject and he shouldn't be asking the question of Miss Nelles.

She has had a long stint in the witness box and I mean, really, unless it is of some real value to you, I submit that you should tell my friend that he has had a go at it and that's enough.



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MR. TOBIAS: Well, this time I really have to take my hat off to you. You have been perceptive enough to raise your objection precisely when I was finished the question and moving on to an entirely different area.

THE COMMISSIONER: Well, we have solved the problem --

MR. SOPINKA: I thought he had another question.

MR. TOBIAS: That is why I said you really shouldn't anticipate. Wait for the question.

In any event...

Mr. Commissioner, I am in your hands. I am cognizant of the time.

THE COMMISSIONER: You don't mean that seriously, do you?

MR. TOBIAS: No, I do, quite literally. Without objection, I would have another 30 minutes.

THE COMMISSIONER: You would be another 30 minutes?

MR. TOBIAS: Yes.

THE COMMISSIONER: Tell me what areas you are going to cover?

MR. TOBIAS: With objection, I may be



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another hour.

THE COMMISSIONER: Well --

MR. TOBIAS: And I would be more than
delighted to cover the areas with you, sir, in
camera --

THE COMMISSIONER: No, but this is
a serious problem --

MR. TOBIAS: -- in the presence of
Mr. Sopinka and Mr. Scott.

MR. LAMEK: Can I get in there too?

THE COMMISSIONER: Miss Nelles has
been on the stand now for some time. Mr. Lamek has
other matters he wants to prepare. I had hoped that
we would finish her examination today. I don't know,
how long will you be in re-examination?

MR. SOPINKA: I have no re-examination.

THE COMMISSIONER: How long will you
be, Mr. Lamek?

MR. LAMEK: I may be half an hour,
Mr. Commissioner.

THE COMMISSIONER: Well, what do you
want? Do you want to --

MR. LAMEK: Mr. Commissioner, at this
stage it seems we have got a solid hour at least. It
might make sense to complete in the morning I suggest.



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THE COMMISSIONER: Are you available tomorrow morning? I take it you are? You knew this sort of thing might happen.

MR. SOPINKA: Yes, I am available. In this particular instance I was doing it for Miss Nelles' sake.

THE COMMISSIONER: Yes.

MR. SOPINKA: I think she was hoping to get finished today.

THE COMMISSIONER: Yes, I would like to do it too, but I know at this hour people begin to fall apart; not just counsel but witnesses and even commissioners.

MR. SOPINKA: Well, I certainly wouldn't want to impose on your good offices --

THE COMMISSIONER: It probably would be wise -- do you want to start --

MR. SOPINKA: I was thinking my friend hasn't responded to your request to identify the subjects because, I submit, he has nothing further that can be relevant, and Mr. Lamek can get on with his examination and we could finish by five o'clock.

THE COMMISSIONER: Well, Mr. Tobias says he is good for half an hour, so there you are.

I think we will rise. The only



1
HH16 2 question now remains it seems to me, is 9:30 of
3 any assistance, if we start at 9:30 instead of
4 ten?

5 MR. LAMEK: That would be of help to
6 me if we could start at 9:30.

7 THE COMMISSIONER: Well then 9:30.
8 I think we will rise until 9:30 tomorrow morning.

9 --- whereupon the hearing was adjourned at 4:35 p.m.
10 until Tuesday, the 10th day of April 1984, at
11 9:30 a.m.

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